

No. 2728

UNITED STATES CIRCUIT COURT OF APPEALS

FOR THE NINTH CIRCUIT

AMERICAN-HAWAIIAN STEAMSHIP COMPANY, a
Corporation, Owner and Claimant of Steamship "Vir-
ginian,"

Appellant.

vs.

STRATHALBYN STEAMSHIP COMPANY, LTD., a Cor-
poration,

Appellee.

AMERICAN-HAWAIIAN STEAMSHIP COMPANY, a
Corporation, Owner and Claimant of Steamship "Vir-
ginian,"

Appellant.

vs.

STRATHALBYN STEAMSHIP COMPANY, LTD., a Cor-
poration, as bailee of a cargo of lumber consisting of
3,563,011 feet, and for the use and benefit of the owners
and insurers of said cargo,

Appellee.

APOSTLES ON APPEAL

(In Five Volumes)

(Vol. 2—Pages 305 to 608)

From the United States District Court for the Western Dis-
trict of Washington, Southern Division.

SHERMAN PRINTING & BINDING CO., SEATTLE, WASH.

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F. D. Monckton,
Clerk.

Testimony of JOHN PURDY:

A. Yes.

Q. And stand upright?

A. If you haven't one and cannot put it in position and work the cargo, you have a short timber, one that carries the cargo up level with the rail, and then when the cargo is on this is withdrawn and the long one put in its place.

Q. And then the cargo from the deck up will hold it? A. Yes, and you continue on.

Q. These stanchions are put in there and stood on end, upright? A. Yes.

Q. And when you get your cargo loaded you bind it fast in the way you have described? A. Yes.

Q. And these chains are made fast around these stanchions by chains that come up in loop form as you have described, on the outside of the lumber, and tied across on top? A. Yes.

Q. So as to hold both the lumber and the stanchions all in place?

A. Oh, no; the loops do not hold the stanchions.

Q. They are made fast over on this timber and across on top, but don't you make,—(interrupted).

A. We generally make the stanchions secure by this (indicating).

Q. You make them fast from the stanchions across? A. Yes.

Q. The loops go from one hawse, looping up on the outside of the cargo in a semicircular shape and over the top, you tie across from one on the other side, back and forth? A. Yes, sir.

Q. And you also tie, by rope or wire, the stanchions across from side to side? A. Yes, sir.

Q. You have said that these stanchions were from 16 to 20 feet long; what were their usual dimensions?

A. Six by nine, I think.

Q. Cut as such timbers are usually cut, square corners? A. Oh, yes.

Q. And faced with four sides, in shape of a rectangle. A. Yes, sir.

Q. And the four sides are all parallel, that is each opposite side is parallel, they are not rounded?

A. Oh, no.

Q. They are cut square across? A. Yes, sir.

Q. In other words, they are ordinary timbers which constitute a part of your cargo; six by eight in dimension and from sixteen to twenty feet in length?

A. Yes, sir.

Q. Your lights, until this night, ever since you have been on the ship, were electric lights? A. Yes, sir.

Q. You have spoken of two wire guy of lead ropes running from the crosstree down to the deck?

A. Yes, sir.

Q. Were those ropes made fast on the deck below?

A. As a general thing, but not when you have a deck cargo.

Q. And they were not in position at this time?

A. Oh, yes.

Q. They were not made fast?

A. No, they were made fast to the lumber.

Q. Did you attend to that yourself?

A. I saw a man doing it.

Q. How were they made fast to the lumber?

A. There is a space shown on the photograph where the winch is; you can crawl down there and make them fast.

Q. Do you use these same lead wires with your electric light? A. No.

Q. You did not have occasion to use them with your electric light? A. No.

Q. And generally have them in place?

A. These things as a general rule are in position at all times, but we do not use them.

Q. They are not in position when you have a deck load cargo?

A. They are in position, only you would not.

Q. But you would have no occasion for them if using electric light? A. Oh, no.

Q. Who attended to these ropes?

A. Making them fast? Q. Yes?

A. I could not say which particular man. I believe the third mate made one fast, with one of the sailors assisting.

Q. What was the man's name who made one fast?

A. Mr. Sterling.

Q. You do not know about the other?

A. No, not from seeing it.

Q. Who attended to putting up the lights that night? A. Two or three of them were on the job.

Q. Who were they? A. I could not say.

Q. Do you know who lighted the lights? A. Yes.

Q. Who was it? A. Taylor.

Q. What position did he hold? A. Quartermaster.

Q. One of the quartermasters? A. Yes, sir.

Q. Is he still with you? A. Yes, sir.

Q. Did he light and put up the masthead light, do you know?

A. He would light them and pass them out, and the Bo'son would whistle, and I didn't see what particular man lifted them.

Q. They were not put in position until just before you started?

A. They are required to be done at sunset. I have no doubt the lamps were in position at half-past five. We started at six o'clock.

Q. It would be dark here at five o'clock at that time in January?

A. But if the ship is not moving, they would not be required.

Q. But I asked you whether you were there and saw them when they were put in?

A. I blowed my whistle, and it is their duty to light the lamps and put them in position. I don't see who put them in position; I would see them cutting along the deck.

Q. How much of a list did your ship have that night? A. Six degrees.

Q. To starboard? A. To starboard, yes.

Q. Did she increase that list as you went along?

A. No, she would decrease it.

Q. Do you know whether she increased it or decreased it?

A. She increased it after the collision.

Q. I mean before the collision?

A. No; it is too short a time to notice it.

Q. Were your engines giving any trouble that night? A. Not that I am aware of.

Q. Any trouble with your coal?

A. I have nothing to do with that.

Q. What is the usual speed of your ship?

A. Depends on the wather.

Q. In weather like you had that night?

A. Eight and three-fourths knots.

Q. What was the reason you were only making six or six and one-half?

MR. HAYDEN: I object to that; it is not shown that they were making six and one-half.

A. There is no ship makes full speed the first hour.

Q. Is that the only reason that you know of?

A. That is the only reason I am aware of.

Q. Then as a matter of fact she would gradually pick up speed as her engines got into action?

A. Naturally.

Q. And the fires improved? A. Naturally.

Q. You don't know how much sheer your vessel has forward of the saloon cabin, do you?

A. I believe I said about 15 inches.

Q. You testified before the inspectors in the city of Seattle on the 23d day of January, did you not?

A. I did.

Q. At that time you were asked by Captain Turner as to the sheer of that vessel, and you answered: "Yes, there is pretty considerable." Is that corecrt?

A. I said usually, for that class of steamer.

Q. You answered, "Yes, there is pretty considerable," did you not?

A. If it is there, I would say so.

Q. Is that true; does she have considerable sheer?

A. All steamers have, of that class.

Q. Does your ship have her plans?

A. What sort of plans?

Q. The ship's plans?

A. We have the pipe and ventilation plan in the mess room.

Q. Have you a plan of the ship itself?

A. I have a deck view, front and side view elevations.

Q. Are those all you have of the ship, aboard?

A. Yes.

Q. Have you the profile plans of your ship?

A. I have what they call capacity plans; I don't know about the profile.

Q. You had the profile plans and turned them over to Mr. Hayden, did you not? A. No, I did not.

Q. Have you got them on board the ship?

A. This plan I have is called the stowage plans.

Q. Your profile plans would show the sheer of your deck from the saloon cabin bulkhead to the foc'sl bulkhead?

A. I have none; if they are drawn to a scale that would show, but I haven't it.

Q. When you took the measurements, you had no deck load forward, but did have a deck load aft?

A. When I took the measurements.

Q. The forward deck load had been removed, but the after deck load was still on the ship, wasn't it?

A. It may have been.

Q. Do you remember of meeting Mr. Moodie, who is here? A. Yes, sir.

Q. At your ship? A. Yes.

Q. Were you there when he came and asked permission to examine the ship? A. Yes.

Q. Did you tell him that you could show him the measurements of the ship's size?

A. I told him so far as I was concerned he could measure anywhere.

Q. Did you tell him you could show him the plans and he could take the measurements from them?

A. I said perhaps I had the plans or might have, and I went to get it, and I remember Mr. Hayden was on the ship and I told him the man's business and he said to refuse it, and I believe I had this plan in my hand.

Q. Did you look and find you did not have it?

A. No, I think I had it.

Q. You told him he could get the measurements from the ship's plans, that you were willing?

A. I don't know that I called them the ship's plans.

Q. Then the plans you had would be of the ship's size?

A. I think I said I could show him a plan that would do.

Q. Give him the measuremnts?

A. He could make the measurements.

Q. Mr. Hayden told you not to?

A. Mr. Hayden spoke to the gentleman himself.

Q. And refused to permit him to make the measurements? A. Yes.

Q. Or make an examination? A. Yes.

Q. The deck load followed the sheer of the vessel, didn't it?

A. It is laid on the deck, it could not avoid it.

Q. Did you make any measuremnts of the height of the deck load?

A. Not to measure it particularly.

Q. So that you do not know the height of the deck load? A. Not exactly.

Q. When you testified before the inspector that the deck load was 14 feet 6 inches high, that was a mere estimate, was it?

A. I said so at that time; of course I could give a very good judgment.

Q. Did any of your officers or crew report to you that your starboard light was out and that it was relit, right after the collision? A. Oh, no.

Q. When you first saw the Virginian, how did she bear from the bow of your ship?

A. I would say a little from her head, from about a quarter to a half a point on the starboard bow.

Q. In your testimony before the inspectors the following question was propounded to you and you answered as follows: "What was the bearing of this ship with reference to your head when you first saw the Virginian?" and you answered, "Oh, I would say perhaps a half a point or three-quarters on the starboard"; is that right, at the time?

A. Oh, yes; what do I say just now?

Q. You said a quarter to a half?

A. That would not be diflerent.

Q. Which way did the Flyer bear from your bow when you first saw her?

A. A quarter of a point to starboard of the Virginian; she was overtaking the Virginian.

Q. When you first gave the whistle to the Flyer, how did she bear?

A. When we whistled to the Flyer, I think she would be about end on to us, or nearly so.

Q. Was the Flyer on your port bow?

A. Slightly; that is why we whistled.

Q. When you first whistled to the Virginian, how did she bear?

A. She was also on the port bow; I would say about a point or point and a half.

Q. Did you see Pully Point light as you approached? A. Yes.

Q. Which way was Pully Point light from you when you saw the Virginian and was giving her these passing whistles?

A. We were whistling to the Virginian; I don't suppose I took any particular notice of Pully Point at that time. When I first saw Pully Point was when I saw the two steamers; at first I could only see their masthead light.

Q. As you watched the Virginian while giving these three whistles, and getting no answer, you saw Pully Point light? A. I did not say so.

Q. Did you not?

A. At that time, if we had been porting, it was bound to be on our port bow.

Q. Did you see Pully Point light? A. No.

Q. When the Virginian was approaching you at the time you first signaled her, up until the collision occurred, did you notice Pully Point light?

A. No. I noticed that light before the steamers rounded the point.

Q. There wasn't anything to interfere with your seeing Pully Point light afterward?

MR. HAYDEN: That is objected to as not being proper cross-examination.

A. I don't suppose I was looking for it.

Q. You have no recollection of seeing Pully Point light? A. No, sir.

Q. Do you remember seeing it just after the collision? A. No.

Q. So that you have no idea of how Pully Point light bore from your ship at the time you first signaled until after the collision?

A. No, not the bearing of Pully Point.

Q. Was this boat lower aft than in front?

A. The Strathalbyn?

Q. Yes? A. You mean loaded by the stern.

Q. Yes. A. Yes.

Q. How much?

A. Well as near as I mind, a foot.

REDIRECT EXAMINATION.

(BY MR. HAYDEN).

Q. When Mr. Moodie inquired is he could see the measurements, do you remember my saying to him that I did not want strangers to be taking measurements; that I could not tell whether they were accurate or not, and therefore confusing this record?

A. I do.

Q. And that is the reason I refused to let him, and told him that was the reason?

A. Yes, sir, and he quite agreed at the time.

Q. I understood Mr. Hughes to ask you if this bridge deck was half a foot lower than the fore-castle head deck; did you mean the cabin deck?

A. The saloon deck he asked, and I said there was a difference of six inches.

(BY MR. HUGHES).

Q. Did you ever take a measurement or level to ascertain the difference between the height of the fore-castle deck and the saloon deck?

MR. HAYDEN: I object as incompetent, irrelevant and immaterial.

A. I have measured; it is six inches.

Q. How did you measure? A. By tape line.

Q. You measured from the main deck to the fore-castle deck, straight up? A. Yes, sir.

Q. And you know the measurements back from the main deck to the saloon deck? A. Yes.

Q. The steps go up either place? A. Yes, sir.

Q. That does not take any account of the sheer of the ship at all? A. Oh, no.

Q. Did you measure the width of the lower bridge when making those measurements? A. Yes.

Q. What is the width of the lower bridge?

A. I could not say unless I included from lamp to lamp; I don't know the measurements of the lower bridge.

Q. Did you make the measurements of the lower bridge on this day? A. No.

Q. Did the carpenter help you make measurements of the lower bridge? A. No.

Q. Did you measure from lamp to lamp?

A. Yes, sir.

Q. Across the bridge? A. Yes, sir.

Q. From lamp to lamp? A. Yes, sir.

Q. What was the width?

A. Forty-seven feet seven inches.

Q. Measuring from the top of the lamp?

A. The center of the chimney.

Q. From the center of the port chimney to the center of the starboard chimney? A. Yes, sir.

Q. What do you say is the measurement from the inside of the port rail in front of the saloon cabin to the inside of the starboard rail?

A. Forty-eight feet eight inches.

Q. Did you measure the width of the deck itself?

A. I don't quite understand.

Q. You have already said the rails come in a little?

A. I measured from edge to edge.

Q. From the edge of one rail to the other?

A. The two inside edges.

Q. That would be four feet above the deck?

A. Yes, sir.

Q. Did you hold your tape line straight across?

A. Yes, sir.

Q. You did not put it down on the floor of the deck and measure under the rail? A. No, sir.

Q. Did you have a tape line that was 48 feet or more long, or did you have to double up? A. No.

Q. The tape line was longer than the width of the ship between the rails? A. Yes, sir.

Q. Did anybody hold it in the middle to keep it from sagging? A. I pulled it tight.

(BY MR. HAYDEN).

Q. Was that a cloth tape line you were using?

A. Yes, sir.

(Witness excused.)

MR. ANDRE CAMERON, a witness called and sworn in behalf of the libelant, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. Your name in full? A. Andre Cameron.

Q. How old are you? A. Twenty-seven, sir.

Q. How long have you been going to sea?

A. Eight years.

Q. How long have you been with the Strathalbyn?

A. Six months.

Q. You were the lookout on the Strathalbyn on the night of the collision? A. Yes.

Q. Do you know where Robinson's Point is now, by the red light that was on it? A. Yes, sir.

Q. When you rounded Robinson's Point, did you see any vessels ahead of you? A. Yes, sir.

Q. And those vessels turned out to be the Flyer and the Virginian? A. Yes, sir.

Q. Do you remember the Strathalbyn blowing to the Flyer? A. Yes, sir.

Q. What whistle did he give her? A. One blast.

Q. Do you remember whether or not the Flyer answered? A. Yes, sir.

Q. With what whistle? A. One blast.

Q. What did your vessel do after that so far as signaling is concerning, if anything?

A. After he blew one blast, then shortly after that he blew another for the Virginian. When I first saw the Virginian I saw her red light. Of course I saw her first when I reported to the officer in charge, it was the two masthead lights, and afterwards I saw her red light; then we blew one blast for them and there was no answer, and then blew a second blast and there was no answer on that either. Then we blew the third blast and yet no answer, and then four blasts went. They

answered that and at the sound of his last blast the crash came.

Q. Describe how the lights on the Virginian appeared?

A. I saw first the red light, and then afterward he closed the red light and put the green on to us; that was on the second whistle, where he closed the red light entirely on us and put on the green.

Q. He did not answer you at all until he blew the four blasts? A. The four blasts.

Q. You were on the forecastle head? A. Yes, sir.

Q. Did you observe the lights of the Strathalbyn?

A. Yes, sir, I reported every half hour.

Q. Were you on the look-out from the time you left Tacoma? A. Yes, sir.

Q. Do you remember how many times you reported the lights?

A. I reported the lights three times, half past six and seven and half past seven.

Q. What lights were burning at half-past seven?

A. There was a masthead light, and the two side lights.

Q. Were those lights burning all the time from the time you left Tacoma? A. Yes, sir.

Q. Did you look at these lights shortly before the collision?

A. Yes, sir, I reported the lights I should say about ten minutes after they struck three bells; that was half-past seven; then I reported them, they were bright.

Q. How did you see the red and green lights?

A. I walked up and down the forecastle head.

Q. From what position did you see them to report them?

A. Coming to the break of the forecastle head, and then went onto the other side of the forecastle head.

Q. What did you do when you got to the break?

A. Just bent over and saw the lights plainly.

Q. Leaned outside?

A. Leaned over the sail, and I reported them.

Q. Could you see the lights from that position?

A. Yes, sir.

Q. Did you notice about the angle that the Vir-

ginian came in contact with you at the time of contact, where she hit you?

A. She hit us on the port bow, six feet on the port hawse pipe; that is where she took us.

Q. What did you do when you saw they were coming together?

A. I shouted to the fireman's ventilator, "Look out below, there is a steamer coming into us!"

Q. When did you shout that?

A. It was not very long—about half a minute; I could not tell that time.

Q. How did the Virginian appear to be coming towards you when you came into collision?

A. He cut into us with his green light showing.

Q. Can you take these two pencils and show about the way the Virginian struck you? Take the red one for the Virginian and the yellow for the Strathalbyn?

A. It was this way (indicating).

Q. It struck you on which side?

A. The port side, with their starboard side.

Q. You ave these pens,—which is the Strathalbyn?

MR. HUGHES: He can set them.

Q. You say the Virginian struck you on the port side? A. Yes, sir.

Q. Now which one of those pencils is the Strathalbyn and which is the Virginian?

A. I would say we were coming this way, and the Virginian coming this way (indicating).

Q. Wouldn't that be striking you on the starboard?

A. I take this for the port side. Oh—it would be this way.

Q. Well, now fix them?

A. It would be this way. She came in this way to us and hit us here (indicating).

Q. She came into you like that? A. Yes, sir.

Q. How far did the bow of the Virginian appear to cross your bow? A. I could not tell that.

Q. That is the direction they appeared to come into you? A. Yes.

Q. Now place them on this paper as you think they came together? A. About this way.

Q. You think that is about it? A. Yes, sir.

Q. Now let us mark those. This line marked S would be the Strathalbyn, and this line marked V would be the Virginian? A. Yes, sir.

MR. HAYDEN: I offer this sketch as identification "Q."

Whereupon said sketch was marked Libelants "Q."

CROSS-EXAMINATION.

(BY MR. HUGHES.)

Q. When you first placed those pencils, you put the Virginian so that she was approaching you much more nearly head on, and changed it afterward when you were interrupted, about two points more on your port bow, didn't you?

A. Well I would judge what I put it.

Q. Why did you change from the time you first located them on the table before you put them on the paper; why did you make such a radical change?

A. I did not make so much of a radical change.

Q. You made a change of about two points?

A. Not on this piece.

Q. From the time you first laid them on the table up to the time they were put on the paper, you put the Virginian about two points more on the starboard bow?

A. The first time I laid them on the table, I put the ships wrong altogether; I was holding left handed.

Q. You had us coming into your starboard bow?

A. Yes, sir.

Q. And then the next time you had them coming more nearly head on, and the last time when you fixed the diagram on the paper, you got the Strathalbyn about two points more on your starboard than the second time you laid them on the table?

A. Yes, that is as I can judge they were.

Q. About how much do you think the Virginian was on your port bow, just before the collision, at the time you gave the danger signal?

A. I could not tell exactly; we hadn't any compass, but I would judge about two points or two and one-half.

Q. And you gave the four blasts and the Virginian immediately answered those? A. Yes, sir.

Q. And almost immediately after she gave her answer, the two ships came together? A. Yes, sir.

Q. How long before the danger signal did you call to the men in the fore-castle?

A. From where I was standing—I was on the bow—at the time we blew our danger signal. From the bow I came to the ventilator and sang out on the port side ventilator, “Look out below!”

Q. Right immediately after the danger signal?

A. After our danger signal, he was working his too.

Q. Some of the men did not have time to get out at all? A. No, sir.

Q. Before the collision? A. No.

Q. Did any of them have time to get out before the collision?

A. I don’t know; they were talking loudly; I don’t know whether they had any time. I know I had time to get over where I was.

Q. How far back from the bow did you get by the time of the collision?

A. From where I was standing, right on the bow by the forward ventilator, I came as far as between the firemen’s fore-castle and their bogie funnel; that is where I got.

Q. How far back from the bow did you go?

A. About, I could not judge as to the number of feet.

Q. Approximately; was it 20 or 30?

A. No, sir, not thirty; it might have been 15 or 20.

Q. That is as far as you had time to go before the collision? A. Yes, sir.

Q. And you ran back immediately after these alarm signals? A. Yes, sir.

Q. When you reported the *Flyer* did you make any report at that time of the *Virginian*?

A. I reported the *Flyer* first; shortly after that I reported the *Virginian*.

Q. What report did you make for the *Flyer*?

A. Right on the port bow.

Q. How much was she on your port bow?

A. The *Flyer*—I could not judge.

Q. Two or three points? A. About that.

Q. She seemed some little distance ahead of the other boat? A. Yes, sir.

Q. About how much?

A. About a half or three-quarters of a mile; I could not tell exactly.

Q. Did you report the Virginian before or after your boat gave one blast to the Flyer?

A. Long before that.

Q. You reported her before your ship gave the passing signal to the Flyer?

A. I reported the Flyer, and about two or three minutes after that I reported the Virginian. And then we blew for the Flyer and he passed by, and then we blew for the Virginian.

Q. How many times did the Strathalbyn blow for the Virginian? A. Three times.

Q. How long before the danger signal was given did the last blast come?

A. I would judge about a minute between.

Q. Could you tell whether you were going to starboard—your bow going to starboard?

A. Our bow was swinging in.

Q. That would be to starboard?

A. Yes, to starboard.

Q. How long had your boat been going to starboard? A. I could not tell how long.

Q. Did it commence to go to starboard before the last signal blast was given?

A. I knew we were going to starboard, but I couldn't tell how long or anything of that kind. You see if the ship is swinging it is impossible by standing at the bow—you can tell but not by standing in the bow.

Q. You can tell whether you were going ahead through the water, couldn't you? A. Yes.

Q. You were still going ahead all the time?

A. We were going ahead, but I don't think we moved much at that time.

Q. Did you have anything to do with putting out the lights?

A. I put the masthead light out, and the quarter-master put out the sidelights.

Q. Who lighted the masthead light for you?

A. One of the quartermasters; Harry Taylor is his name.

Q. Where was that light kept?

A. There is a locker for the lights.

Q. Where is that? A. Forward.

Q. Where with reference to the fore-castle cabin?

A. The fore-castle cabin—all the lamp lockers and paint lockers are on the aft part of the fore-castle cabin.

Q. Which way do they open?

A. Outside on the deck.

Q. Was there space left?

A. Yes, sir; between the firemen's fore-castle and the sailor's fore-castle, and the doors of the paint locker and lamp locker open on the deck.

Q. Did you have anything to do with taking care of the lamps? A. No, sir.

Q. Did you see Andre take out these lamps and put the wicks in them, or the oil in them?

A. No, sir, I did not notice.

Q. Had you ever seen them used before on that boat? A. No, sir.

Q. Had you ever seen them before that night?

A. I have seen them in the locker, hanging up in their places.

Q. Are you sure about that? A. Yes, sir.

Q. Did you help to bring them here? A. Yes, sir.

Q. What time did you put the masthead light up?

A. The mate on the fore-castle head and the carpenter was there, and I was called to put up the lights, and the quartermaster passed me the masthead light and I went away with it, and I don't know who took the others?

Q. Did you put it in the cage? A. Not in the cage.

Q. Did you send the rope onto the top of it?

A. No,—yes, I bent the rope, but there are two wires that come down from underneath the cage. There is a fork up there; and two wires coming down to the deck. Those two wires are rove in here (indicating), and the lamp passed up.

Q. How do you rove those wires in the rings?

A. We rove them in and fastened them down on the lumber.

Q. Had they been made fast on the lumber before?

A. No, sir, they were adrift.

Q. As a matter of fact you did not make them fast on the lumber, did you?

A. I made them fast on the lumber.

Q. You had not anything to make them fast with, had you?

A. Yes, on the edges of the lumber that come out between the winches.

Q. Are you sure you tied them fast? A. Yes, sir.

Q. How did you tie them?

A. There was a piece of lashing.

Q. You attempted to lash them around the edges of pieces of lumber? A. Yes, sir.

Q. How did you hoist it up?

A. Pulled it up. On top there are two pieces of iron, about four feet or three feet long, under the plate of the masthead light, and then the rings were right up, so that the lamp is steady.

Q. But that never had been used before? A. No.

Q. Those rods had not been used before?

A. Not since I was aboard.

Q. Where was the cage of these lamps?

A. I don't know where it was.

Q. How did you say you pulled them up?

A. By making fast the line on it.

Q. And then hoisted them up? A. Yes, sir.

Q. How do you know you got them clear up in the darkness?

A. Because I went up there in the rigging to see.

Q. You are sure you went up the rigging?

A. Yes, sir, the bo'son was there.

Q. How high? A. Underneath the cross tree.

Q. They were right under the cross tree?

A. Yes, sir.

Q. How far were they under the cross tree?

A. Right up against,—there is a plate that comes there, where the other line is on, and two forks standing there, and the light was right under there.

Q. How much was the light hung below the cross tree? A. I could not tell; about a foot.

Q. That is the top of the lamp would hang a foot below the cross tree? A. No. It goes right up.

Q. The body of the lamp swung under the cross-tree?

A. It could not swing after it got into the fork.

Q. Was it hanging underneath the cross-tree?

A. Yes, sir, because the forks is under the cross tree.

Q. Have you ever been up and examined those forks before?

A. No, sir. I had been up there painting them once, on the passage out.

Q. Did you examine afterward to see that the guy ropes were still tied fast to the sticks of lumber that you say you tied them to? A. Yes, they were fast.

Q. Did you examine them afterwards?

A. They were never put down until we came back to Tacoma.

Q. Did you help to take them down?

A. No. I did not take any lights in at all.

Q. You had ~~nothing~~ to do with taking in the lights?

A. Yes; I had to take the lights.

Q. I mean that night?

A. No, I did not take in any.

Q. Did you have anything to do with fixing up the lights after the collision occurred? A. No.

Q. You did not help to light up the starboard lamp that had gone out. A. No, sir.

Q. Do you know when the starboard light went out? A. No, sir.

Q. Was there any rope that came down from the mast forward, in front of this light?

A. There is a stay; the topmast stay; and the main stay is underneath.

Q. Did you notice how much that lamp has smoked that night? A. No.

MR. HAYDEN: I object as not a proper hypothetical question.

Q. When you were standing on the forecastle head, was the deckload higher than your head?

A. I think it was.

Q. You know it was don't you?

A. Yes, standing on the break, but not standing by the windlass. I could open the cabin ports by standing on the windlass; I mean on the poop of the windlass.

Q. Could you see the lights while you were standing on the poop of the windlass? A. Yes.

Q. Could you see the sidelights when standing on the poop of the windlass?

A. Yes, sir, I could see them showing inside the first stanchion, by standing on the poop of the windlass.

Q. Showing inside the first stanchion? A. Yes, sir.

Q. The poop of the windlass is in the center?

A. No, the barrel of the windlass is the poop.

Q. Where is that?

A. That is on the side of the bow.

Q. How much is it to one side of the bow?

A. I could not judge.

Q. What is the outside width of the drums, from one to the other.

A. I could not tell; I never measured.

Q. They are located right amidships, abaft the stem; six or eight feet aren't they?

A. From the barrel of the windlass to the side of the ship?

Q. No; the drums of the windlass are located abaft of the stem, amidships, six or eight feet?

A. Yes, about that.

Q. And from that point you could see the side lights? A. Yes, sir.

Q. Both of them? A. Yes, sir.

Q. Looking back inside the stanchions?

A. Yes, sir.

Q. Did you notice them there that evening repeatedly, from that point? A. Yes, sir.

Q. You were there when the ship was being loaded, were you? A. Yes, sir.

Q. How many stanchions were there on each side of the forward deck cargo?

A. I could not tell; I did not count.

Q. There were several?

A. Yes, there were several.

Q. Well about ten feet apart, were they?

A. About ten or twelve feet, more or less; I could not tell exactly.

Q. About how high did they stand above the deck cargo?

A. I know they stood over six feet, some of them.

Q. Higher than your head? A. Some of them.

Q. And how big were they?

A. Six by ten, or six by eight; I could not tell.

Q. They were heavy timbers?

A. Heavy timbers, yes, sir.

Q. Did they stand vertically?

A. I don't know how they stand.

Q. You testified before the inspectors at Seattle, did you? A. Yes, sir.

Q. And Captain Whitney asked you this question: "Q. Did your deck load stanchions stand vertical or did they tumble home a little," and you answered, "No, they were straight." Didn't you?

A. Yes, I might have said that at that time.

Q. Now, that was correct wasn't it?

A. Well I don't know exactly how they were; I said they stood straight, to my vision.

Q. I wish you would look at this photograph, Libellant's Exhibit C, and tell me what these railings or rods are above the bow of the ship, which I mark with an X, representing those different railings?

A. They are the forecastle awnings drawn back after the crash; the spars.

Q. The awnings extend back over the forecastle head and back over the deck?

A. They have been thrown back.

Q. But they naturally in position extended back over the forecastle head? A. Over the deck cargo.

Q. And this deck cargo came up to the awnings, didn't they? A. No, not on the aft part.

Q. But they came right up under the awnings?

A. No, sir.

Q. It came up very close?

A. No, you can stand on the rail and reach like this with the hand, and that is over six feet again, be-

cause when we clean the spars we hang one hand up, with the other hand washing.

Q. Standing on the ship's rail? A. Yes, sir.

Q. That would be eight or nine feet?

A. On the middle, yes, sir.

Q. Above the forecastle cabin? A. Yes, sir.

Q. Did these awnings extend back as far as the cargo? A. They were thrown,—(interrupted)

Q. I mean before the collision? A. Oh, no.

Q. They were in front of the cargo?

A. In front of the cargo.

Q. Over the cabin? A. Over the cabin, yes.

Q. Did you report Pully Point light?

A. Which is Pully Point?

Q. The light that was ahead of you before this collision occurred? A. I don't remember.

Q. You don't remember seeing a light there?

A. Yes, I saw a white light.

Q. Did you report that?

A. I don't remember reporting it at that time, because I was looking after the Virginian coming down to us, and the Flyer passing.

Q. After you gave your passing signals to the Virginian, did you see this white light on the land?

A. Yes, sir.

Q. How did that bear with reference to the Virginian; was it right behind it?

A. I could not tell; it was a little on the side.

Q. Which side; port or starboard as you looked ahead—that is before the collision when giving the passing signal?

A. It was rather on his port quarter, something like that.

Q. Did you see it up to the time of the collision or just before? A. Yes, sir, before the collision.

Q. And whenever you saw it, it was off the port quarter of the Virginian?

A. Well I don't know where it was, but I know I saw a shore light, but I don't know whether it was one course, or inside.

Q. How did it bear from your vessel just before the collision?

A. Whether a bit on the starboard bow, or right ahead, I could not judge exactly.

Q. It was either right ahead or on your starboard bow, just before the collision, was it? A. Yes, sir.

MR. HAYDEN: Q. I understand you to say that from the bow of the ship looking ahead, you could not tell the course she was making or just how she was pointing? A. Not by looking forward.

(BY MR. HUGHES)

Q. Did the shock of the collision throw you over at all?

A. No, sir, but I was standing against the ventilator; I only got the shock, that is all. It did not throw me.

Q. Which way did it throw you? A. I got a shock over.

Q. Which way?

A. I was against the ventilator; it shoved me.

Q. In which direction did it shove you?

A. Back, or aft.

(Witness excused.)

MR. ROBERT G. RUSSELL, a witness called and sworn in behalf of the libelant, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN)

Q. What is your full name?

A. Robert George Russell.

Q. How old are you? A. Twenty-one, sir.

Q. How long have you been going to sea?

A. About six years altogether.

Q. How long have you been on the Strathalbyn?

A. Six and one-half months.

Q. What were you doing on board of her on the night of the collision with the Virginian?

A. I was at the wheel, sir.

Q. Located where? A. On the flying bridge.

Q. Where Mr. Beecher and Mr. Purdy were standing? A. Yes, sir.

Q. You were on board of her were you from the time she left Tacoma until she had the collision?

A. Yes, sir.

Q. Standing at the wheel all the time. A. Yes, sir.

Q. Nothing unusual occurred, I understand, until after you got beyond Robinson's Point?

A. Not that I saw, sir.

Q. You understand Robinson's Point to be the red light?

A. I didn't know it then, but I understood it afterward.

Q. When did you notice the Flyer and the Virginian approaching you after you got beyond Robinson's Point, or before?

A. When we were on the other side of Robinson's Point.

Q. Do you remember any signals being given to the Flyer? A. Yes, sir.

Q. What signals were given? A. One blast.

Q. Was that answered? A. Yes, sir.

Q. Were any signals given to the Virginian thereafter? A. Yes, sir.

Q. How many? A. Three all together.

Q. Describe them now, please?

A. The first one we gave, Captain Beecher blew the whistle and gave the order to port the helm. I ported the helm two points and steadied her up again on his orders. The next blast, he gave the order to port again; I ported another point and a half; she did not steady up but kept going gradually under that. He stopped her then too, the second blast. Then the third blast; there was no answer.

Q. He didn't get answer to any of them?

A. No, sir.

Q. Did he give another blast?

A. Yes, he gave his danger signal.

Q. Then what happened?

A. He reversed his engines, and the Virginian answered the danger signal, three blasts. That was the only whistles I heard from them.

Q. The Virginian's three blasts? A. Yes, sir.

Q. Did you notice the Virginian's lights?

A. Yes, sir.

Q. How did they appear to be to you when the first blast was given to the Virginian?

A. She was showing her green lights partly, both her side lights.

Q. Both the red and green light at that time?

A. Yes, sir.

Q. When the second blast was given to the Virginian, do you know how her lights appeared then?

A. She was showing her green lights, sir.

Q. And when you gave the third blast how did the lights appear? A. The same; the green light.

Q. Did you observe or could you tell and did you observe whether or not the masthead light was burning?

A. Yes, sir, I could see the glare on the cross-trees.

Q. Did it continue to burn until after the collision?

A. Yes, sir; it was burning all the time I was aboard until we came back to Tacoma.

CROSS EXAMINATION.

(BY MR. HUGHES)

Q. How long have you been quartermaster on the Strathalbyn? A. Since I joined her in England.

Q. Your wheel was on the flying bridge?

A. Yes, sir.

Q. There is no covering there for it? A. No, sir.

Q. You were standing out in the open, steering?

A. Yes, sir.

Q. You were paying attention to your wheel and watching what you were doing? A. Certainly I was.

Q. You did not pay any especial attention to anything else?

A. No, sir, I did not; I watched my steering; that is what I was up there for, to attend to my duty.

Q. After Captain Beecher gave the first blast or signal for passing, did he give you an order to port?

A. No, sir, not for the Flyer.

Q. Was the Flyer well off on your port bow?

A. Yes, sir.

Q. So that it was not necessary at all to port?

A. No, sir.

Q. How long after that was it before he blew a blast for the Virginian?

A. A matter of a minute, or a minute and a half or more.

Q. Was the Virginian dead ahead of you or nearly so at the time? A. Pretty near.

Q. Wasn't it a little bit on your starboard bow?

A. Not much, sir.

Q. How long after he gave that blast did he order you to port your helm? A. When he gave the blast.

Q. Afterwards? A. Right afterwards.

Q. Did he tell you how much to port it?

A. He gave order to port, and then when he thought it was far enough he told me to steady up.

Q. How much did you port? A. Two points.

Q. Before he told you to steady? A. Yes, sir.

Q. And then you steadied your helm on that course?

A. Yes, sir.

Q. So that from that time until the next order you got you were proceeding on a course two points to the starboard of what your course had been before?

A. Certainly.

Q. Now how long was it before he gave the second whistle? A. About a minute.

Q. Then you had been running on the course two points more to starboard for about a minute before the second whistle. A. Yes, sir.

Q. There was not any answer to that whistle either? A. No, sir.

Q. And the Virginian was then on your port bow a little? A. Yes, sir.

Q. About how much at that time was it to port?

A. I did not take bearings.

Q. Would you judge two points to starboard?

A. Yes, sir.

Q. Was she as much as two points on your port bow? A. She might have been.

Q. You did not pay much attention to her did you?

A. No.

Q. After that second blast did the captain give you any further order about the wheel?

A. Yes, sir; ported again.

Q. Did he give you that order immediately, or did he wait to see if an answer would be given?

A. No, he just gave it directly after.

Q. And you ported again did you? A. Yes, sir.

Q. How much did you port it that time?

A. About a point and a half.

Q. Did you steady it?

A. Not exactly; she remained on the port helm that time.

Q. She kept swinging more and more?

A. Yes, sir.

Q. How long was it after that before the collision, after that second whistle? Was it two or three minutes? A. Not that long; about two minutes maybe.

Q. And all that time she was swinging on the port helm? A. Yes, but steady, not fast.

Q. She would not be on a swing unless you steadied her?

A. You can hardly steady a ship when there is no steering way. She was not going ahead then, not much anyway.

Q. That was the time he stopped her, wasn't it?

A. He stopped her on the second blast.

Q. Then he blew another blast? A. Yes.

Q. You did not get any answer to that? A. No.

Q. All the time you had her on the port helm?

A. Yes, sir.

Q. You had not steadied her again?

A. I do not understand.

Q. You kept her held over on the port helm?

A. I do not understand what you are talking of.

Q. Do you know whether you kept the helm over?

A. I told you on the second blast he gave me the order to port.

A. And you kept it over?

A. I did not keep it over. I did not have the wheel over at all.

Q. But you kept it where you put it? A. Yes, sir.

Q. You did not steady it off?

A. I steadied it up a little.

Q. He did not order you to steady her up?

A. No, but I just kept her gradually under port helm, that is what he said, to steady her.

Q. After the third blast it ran along for a minute, and then he gave the danger signal?

A. About a minute and a half or two minutes.

Q. Then he reversed the engine? A. Yes, sir.

Q. How soon after that was it that the collision came; was it very quickly?

A. Oh, maybe half a minute or a minute.

Q. You did not see the lights before the collision, did you? A. No, sir.

Q. Did anybody tell you about the starboard light being out, after the collision; did anybody tell you after the collision occurred that the starboard light was out?

A. No, I don't think they would come up on the bridge and tell me that.

Q. You remained up on the bridge?

A. For nearly three-quarters of an hour after the collision.

Q. Then you went down? A. Yes, sir.

Q. Did any of the men tell you that the starboard light was out and that it was lighted again?

A. No, sir, I never heard anything about it.

Q. Now the forward deck load, looking at this photograph, Libelant's Identification C, came right up to the molding on the lower bridge, didn't it?

A. No, it only came to that brass ports here.

Q. That is right at the deck, lower bridge?

A. It does not look to me like that; there should be a space there.

Q. What do you mean?

A. The brass ports in front of the saloon.

Q. You testified before the inspectors in Seattle, as follows, did you not: "Was the deck load below the lower bridge; the top deck load; was it below the lower bridge? A. Just by the lower bridge, sir; little below the lower bridge." Was that right when you testified to that?

A. Yes, sir, and I say the same now.

Q. It came right up almost to the molding of the lower bridge?

A. No, sir, not exactly, not to the molding.

Q. Do you remember this man Mr. Moodie, and talking with him after the collision, a day or so?

A. Yes, sir, I saw him I think about a week after.

Q. In Tacoma, at the boat, the Strathalbyn?

A. Yes, sir.

Q. Didn't you tell him that the deck load came up to the molding at the foot of the lower bridge; that is the deck of the lower bridge?

A. I do not remember saying such a thing to him.

Q. Will you testify that you did not?

A. I don't remember and I could not say anything else.

Q. How high is that railing in front of the lower bridge?

A. I never measured it, so that I could not tell.

Q. Have you any idea? A. No, sir.

Q. It would come up to about your waist?

A. I never tried it.

Q. You have walked by it a hundred times?

A. I might, but I didn't take notice.

Q. And you haven't any idea of the height of it?

A. No.

Q. And you haven't any idea, any more than you have of the height of the deck-load?

A. No, sir, I had nothing to do with the deck load.

Q. Did you have anything to do with these lights that night? A. No, sir.

Q. Did you help to take care of them after the collision?

A. When we came back to Tacoma, I took in the side lights.

Q. Did you clean them? A. No, I did not.

Q. Who did clean them?

A. I don't know; it was not me.

Q. You don't know who cleaned them?

A. No, I don't think I was going to stop on deck at two o'clock in the morning to clean lamps; I don't think I would, having been up from five o'clock in the morning.

Q. Did you notice how badly they were smoked?

A. I didn't see any smoke on them.

Q. Did you notice particularly? A. No.

Q. Did you put out the lights? A. Yes.

Q. Did you take them out of the screens?

A. Yes, sir.

Q. You didn't have anything to do with taking down the masthead light? A. No, sir, I did not.

Q. These ropes here are the awnings on the fore-castle head?

A. I think they are the awning stays.

Q. These that run back here are the strong backs?

A. Yes, sir.

Q. You told Mr. Moodie also that the deck load came up to these stays, didn't you?

A. I don't remember telling him anything about it.

Q. But they did come up to that, as a matter of fact?

A. I never saw them up there. I have never been on the fore-castle head since the cargo was on. I was on the after watch.

Q. You had never been up there at all?

A. Not when the deckload was on.

Q. You never were up after the deckload was on at all? A. Not at all.

Q. And you didn't tell Mr. Moodie that the deck-load went up to the strong backs of the awning and the fore-castle?

A. No, sir; I don't remember telling him at all; the only thing I saw of him he was coming on board one day, and he was going to take photographs, that is all.

Q. There were a couple of men with him at that time? A. I remember one other; that is all.

Q. You had a conversation with them, did you?

A. No, not myself that I remember. The other boys were around.

Q. You remember Mr. Moodie was taking photographs there that day? A. Yes, sir.

Q. You showed him around there?

A. I never showed him around.

Q. You went with him? A. I never did.

Q. You talked with him and told him that the deckload came up to those stairs?

O. Oh, no, sir, I didn't tell him anything of the kind, so far as I remember.

Q. Were you in the crowd when your picture was taken?

A. I don't know about that; you might have a look.

Q. Look at this picture, Respondent's Identification 4, is that your picture there with the cap on, by the rail?

A. That might be.

Q. Don't you know? A. Yes.

Q. The man standing up by the port rail?

A. Yes, sir.

Q. You were standing up on the rail at the time the picture was taken; you remember he asked you to stand up on the rail and you stood on the rail?

A. I believe I was; I don't know that he took those pictures himself; I don't think he did.

Q. But he was there when they were taken, and asked you to stand on the railing?

A. I don't think he asked me anything at all.

Q. You got up there on purpose so that your picture might be taken standing, didn't you? A. No, sir.

Q. Will you admit you were standing on the rail?

A. No, I would not say that I was.

Q. You would admit that is your picture standing there, would you not? A. No, I would not say.

Q. You never looked at yourself in a glass so that you know?

A. No, I never look at myself in a glass. I am afraid it might break them, and I believe they are very dear.

(Witness excused.)

MR. HENRY TAYLOR, a witness called and sworn in behalf of the Libelant, being duly sworn, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN)

Q. What is your name? A. Henry Taylor.

Q. How old are you? A. Forty-two years.

Q. How long have you been going to sea?

A. Twenty-five years.

Q. How long have you been on the Strathalbyn?

A. Close to seven months.

Q. What is your position aboard of her?

A. I signed as A. B. and got picked up as quarter-master afterwards.

Q. What were your duties aboard her on the night of the collision?

A. I was knocking around; standing by at the time of the collision; as long as I kept within the sound of the mate's whistle I knew when he wanted me.

Q. It was your duty to attend to the mate at that time? A. Yes, sir.

Q. Before you left Tacoma, did you have anything to do with the lamps used that night? A. Yes, sir.

Q. State what you did with them?

A. I took them out of the lockers, so that they could get at them, overhauled them, cleaned the insides, and if there was any dust put a piece of wasteup and wiped it off. I knew that they had not been used. Emptied the old oil out and put in new wicks and fresh oil, and after they were properly trimmed I lit them to see how they would burn.

Q. You did that yourself?

A. The third mate was looking on to see that I did it.

Q. But you did the work?

A. I was the man who did the work.

Q. You lighted them? A. Yes, sir.

Q. When did you light them first?

A. Between three and half-past.

Q. How long did they burn?

A. About a half hour.

Q. Then what did you do with them?

A. Blew them out and put them back into the cases.

Q. Were they all right? A. Yes, sir.

Q. Did you light them when they were to be put up? A. Yes, sir.

Q. How long was that before you started on the voyage?

A. About ten minutes or a quarter of an hour.

Q. Did you light them personally? A. Yes, sir.

Q. Have you ever served as lamp trimmer?

A. Yes, sir.

Q. Were these lights put out after you lit them,—set for the voyage?

A. I lit them and let them burn up awhile to see if they smoked, and put the wicks down a little until they

got a clear flame before I closed the doors and put them out.

Q. They were burning clearly and properly, and bright, when they were put out? A. Yes, sir.

Q. How were they burning? A. Bright.

Q. How were they burning compared with the way lamps are usually prepared by you for burning?

A. The same way.

Q. What do you mean by the same way?

A. The same as any other oil lamps I have been with.

Q. Did you fix the lamps for the masthead and two side lights? A. Yes, sir, and the stern.

Q. The ones that were used that night?

A. The ones that were used that night.

Q. Look at these lamps down here and state whether or not they are the same lamps?

A. Yes, sir, they are the same.

Q. Did you have anything to do with the lamps after they were put out, from the time you left Tacoma up to the time of the collision?

A. If they wanted anything done to them, I should have, but if they did I was there; but as for doing anything to them, I did not.

Q. It was your duty to attend to them was it?

A. Yes, sir.

Q. Do you remember when you passed the red light going to Seattle?

A. I didn't see that red light until they put her on the beach.

Q. Until you come back? A. Yes, sir.

Q. Do you remember approaching the Flyer?

A. I think it was pretty well on the beam when I saw her.

Q. Where were you after that time?

A. I was down to the entrance to the fittley.

Q. Did you hear the whistles to the Flyer?

A. I might have; I didn't notice; I don't remember.

Q. Did you hear the whistle to the Virginian?

A. The only whistles I heard was when she was nearly into us; three or four at once.

Q. Where were you when those whistles were blown? A. Right on the lower bridge.

Q. At that time did you observe the lights, when whistling to the Virginian? A. What lights?

Q. The port light or masthead light, or starboard?

A. I was leaning over the rail by the port light; I was bound to see it.

Q. You were leaning over the rail? A. Yes, sir.

Q. How long before the collision?

A. I think it was after the last blast, before I shunted away. I did not know where she would hit, and I wanted to get out of danger if I could.

Q. Did you observe the port light while you were hanging over it? A. It was burning bright.

Q. How did the Virginian appear to be approaching you at that time? A. She was off our port bow.

Q. You could see her distinctly could you?

A. I could see her lights well.

Q. Did you look at the starboard light?

A. I didn't go that far over.

Q. Have you any recollection of whether you noticed the masthead light burning at the time of the collision?

A. Looking up and forward I would be bound to see the reflection, like as if I was looking out of a window, I could see the top of that house, the same way.

Q. Did you put out the lights yourself?

A. Not all of them. The third mate took one and I took the other up and took it to the lower bridge and handed it over to him. I was standing on the lumber. Then went forward and put the masthead light out, and then went and took the stern light aft.

Q. Do you know what time the collision occurred?

A. I went into the wheel house about a minute before it happened, to look at the time, to see whether it was one bell.

Q. What time was it by the wheel house clock?

A. Twenty-three minutes to eight, then.

Q. Since these lights have been taken down, have you had anything to do with them? A. No, sir.

Q. They were put away in the locker?

A. I did not even put them away.

MR. HAYDEN: You may cross examine.

Whereupon an adjournment is taken until 10:15 tomorrow.

10:15 A. M. Friday, February 16th, 1912.

MR. HENRY TAYLOR, being recalled for cross examination, testified as follows:

CROSS EXAMINATION BY MR. HUGHES.

Q. How long have you been at sea?

A. Twenty-five years.

Q. How old are you? A. Forty-two.

Q. What had you done at sea.

A. Oh, knocked about, worked.

Q. What kind of work. A. Sailors work.

Q. Did you have charge of the lamps on this boat?

A. No, I did not have complete charge.

Q. Who did? A. I do not know.

Q. It was not anybody's business on this boat?

A. I couldn't say sir.

Q. How long were you on the boat?

A. If I live until next Sunday it will be seven months.

Q. Where were you lamp trimmer?

A. In Chicago City last January, to November, last year, running between Bristol, Swansea and New York.

Q. That is all the experience you had on boat as lamp trimmer? A. Oh, no.

Q. Who told you to fix up these lamps?

A. The bo'son.

Q. What is his name? A. Mr. Walteson.

Q. When did he tell you to do that?

A. After dinner.

Q. How long after dinner?

A. Directly, before we turned to.

Q. What were you doing when you turned to?

A. I went straight to the lamps.

Q. Did you have anything else to do that day?

A. I was sleeping the rest of the time in the forenoon.

Q. Did you have anything else to do that afternoon? A. No, sir.

Q. Did the rest of the crew have anything to do?

A. Oh, yes, they were lashing cargo, clearing up, getting ready for sea.

Q. What did you do with those lamps?

A. I trimmed them.

Q. Had they ever been used before?

A. The lamps themselves had.

Q. What for?

A. I don't know; somebody might had one of them in the room to warm it up where they had no bogie flue in.

Q. The wicks were in them?

A. Yes, and they were burned, so that they must have been used.

Q. How much had they been burned?

A. I could not say; there was a slight crust on them.

Q. Did you take the wicks out?

A. I took them out complete.

Q. And how much had been burned; you should be able to tell?

A. Some ships only put a wick to the bottom of the lamp, and some have six or eight inches down at the bottom.

Q. How were these?

A. These were about three inches on the bottom of the lamps.

Q. Had all three lamps been used before?

A. Well, yes.

Q. You are sure about that?

A. I am pretty sure. All three wicks had been used, whether in that lamp or before, I could not say.

Q. All the wicks had been used before?

A. Yes, sir.

Q. Now these lights had never been used; the captain,—(interrupted)

A. That is, not for the purpose of masthead and side lights.

Q. Would the crew be allowed to take out these lamps and use them around the ship? A. Oh, no.

Q. Did you ever see the lamps used during the six months you were on board? A. No.

Q. Never saw any member of the crew tamper with these lamps in any way? A. No.

Q. Was there any oil in those lamps when you went there? A. Yes, sir.

Q. In all of them? A. Yes, sir.

Q. Any oil in the masthead light? A. Yes, sir.

Q. Oil in all of them? A. Oil in the locker.

Q. How much oil in them?

A. They were pretty well full.

Q. So that you did not have to put in oil?

A. Yes I did; I had to fill them.

Q. How much did you put in?

A. I emptied out the old oil and refilled them.

Q. Each of them? A. Each one.

Q. You are sure of that? A. Certain.

Q. Where did you get the oil? A. Out of the tank.

Q. What kind of oil was that? A. Colza.

Q. Is that the same kind of oil that was used in the other lamps there?

A. The same that is used in her lamps.

Q. In whose lamps? A. In this one.

Q. But you say you never used those lamps before?

A. The same as used in the bulls eye and dock lamps.

Q. And in the lamps in the engine room?

A. I dare say; I have nothing to do with that.

Q. You never cleaned or trimmed them? A. No.

Q. Did you ever fill the other lamps around there?

A. I used to trim the riding lights.

Q. Did you use colza oil in them? A. In one.

Q. What did you use in the other? A. Paraffine.

Q. You put colza oil in that lamp which you put on the stern of the ship? A. Yes, sir.

Q. Where did you find these three lamps?

A. In their lockers; in the lamp room.

Q. That room is the place where they keep all the ship's lamps? A. All the deck lamps.

Q. Did you find the cages that they used there also, the cages that they put these lamps in?

A. I didn't know they put them in cages, only the masthead light.

Q. I am talking about the masthead light?

A. They don't use the cage *unless they are going to use it* REGULAR. Some ships don't believe in cages.

Q. Do you know where the cage for this masthead lamp was? A. No, sir.

Q. You have often used those masthead lamps with the cages, haven't you? A. I have used them, yes.

Q. What sort of a cage do they have?

MR. HAYDEN: I object to all this as immaterial.

A. It is the same shape as the lamp, and the bottom comes up about a quarter of an inch below this.

Q. What is that?

A. Below the bottom of the lamp, and the top band comes up here.

Q. And the lamp sits inside the case?

A. Yes, sir, tightens it to.

Q. And the cage is of what?

A. Galvanized iron or something like that; some metal.

Q. And on the outside of the cage there are rings like on this lamp? A. Yes, sir.

Q. And on the inside of the cage, rods that run through these rings in this lamp to hold it in place in the cage? A. There is a wire guide on each side.

Q. I am talking about when they put them in the cage. There is a guide that runs through the rings to hold it in the cage, isn't there?

A. No. It will stay in the cage, unless you turn it upside down. You couldn't shift it when it is in the cage.

Q. At any rate, you did not find any cage there at all? A. No.

Q. And you filled and trimmed these lamps and lighted them? A. I did.

Q. What did you light them for?

A. To see that they would burn; to see if the wicks needed retrimming.

Q. Did you find it necessary to retrim them.

A. Yes, to cut out the ragged ends.

Q. Did you light them again? A. Yes, sir.

Q. What did you do that for?

A. If you ever trimmed a lamp, you would know that a wick that is new would not burn properly. You

let it burn for a little while so that it will burn off even across.

Q. But I thought you said these were not new?

A. Oh, yes, they were new wicks.

Q. Did you get new wicks and put in?

A. The *third mate* brought them to me.

Q. You put in new wicks then? A. Yes, sir.

Q. Then as a matter of fact these wicks had never been burned before you lit them?

A. Only that afternoon.

Q. You started them to see if they were trimmed properly? A. Yes, sir.

Q. And then you put the lights out? A. Yes, sir.

Q. And you took each one and fitted it, and trimmed it, and tested it, and when you got through with that, you took the next one?

A. No, I trimmed one after the other first, and lit all four together.

Q. And then you trimmed them all after you lit them? A. No, before I lit them.

Q. You didn't have to trim them after they were lit? A. They were filled up with oil then.

Q. I say trimmed them?

A. When you talk about trimming lamps you fill them with oil and see that the wicks are right; that is trimming.

Q. I am asking if after you lighted them you had to trim them again? A. No, sir.

Q. They were all right the first time. A. Yes, sir.

Q. Then as a matter of fact you put in the new wicks and filled them with oil and lit them and found them all right? A. Yes, sir.

Q. And as soon as you found they were all right you put them away? A. Yes, sir.

Q. Do you know how long they burn when they are filled once?

A. They are supposed to burn 16 hours.

Q. You don't know how long these particular ones would burn?

A. If you would get a lamp out of another ship like her, the same kind of a light and same oil, you could make a good guess.

Q. But you don't know anything other than that?

A. That is all.

Q. You only had that one night's experience with them? A. That is all.

Q. Did you light the lamps that evening again?

A. Yes, sir.

Q. All of them? A. Yes, sir.

Q. What time did you light them?

A. I had finished my tea, and they sang out "Lights out," and they started to heave away at anchor.

Q. Who told you to light the lights when they started that? A. I did the trimming of them.

Q. Did anybody order you to light them?

A. It was my place.

Q. Is that your regular duty on the ship?

A. It was that day.

Q. Did anybody order you that evening to light the lights, and if so who was it?

A. I heard the order come down from the deck, "Lights out," and it was my place to light them, and I went and lit them.

Q. To whom did you give the side lights?

A. One to the third mate.

Q. What is his name? A. Mr. Sterling.

Q. Which one did you give to him?

A. I think it was the red one; I would not be certain. The first one that came handy.

Q. To whom did you give the other?

A. I took that along myself.

Q. The other side-light? A. Yes, sir.

Q. Who put it out? A. The third mate did.

Q. So that the third mate put up both lights?

A. He put them in the screens.

Q. To whom did you give the masthead light?

A. Cameron. I was standing at the aft ladder by the hatch.

Q. That is right in front of the fore-castle?

A. Yes, sir.

Q. And he took it up on the cargo, and that is all you know about that?

A. That is all I know, except that I saw it up there afterwards.

Q. Then the rear lamp you took back yourself?

A. Yes, sir.

Q. What kind of a lamp was that?

A. The same as this one.

Q. The same as the masthead light? A. Yes, sir.

Q. Where did you put that?

A. Over the stern; just outside the rail at least.

Q. How did you fasten it there? A. Lashed it.

Q. It was there all the time was it? A. Yes, sir.

Q. Now what did you do after that?

A. I think I went and had a smoke.

Q. Were you on duty any more after that before the collision? A. In case I was wanted, I was.

Q. Were you ordered to do anything after that, and before the collision? A. Oh, yes.

Q. What?

A. I had to go look at the stern light and see if it was burning.

Q. Did you? A. Certainly.

Q. How many times did you do that?

A. About a quarter past seven. I did not notice particularly. I know I came back and it struck three bells.

Q. That was burning the same as the masthead light, was it?

MR. HAYDEN: Object to that as immaterial.

A. It was out.

Q. What was the matter? A. It blew out.

Q. It blew out? A. I expect it did.

Q. Did you light it again? A. Certainly.

Q. How many times did it go out on you?

A. Only that once.

Q. What time was it that you relighted it?

A. When I went aft, about, between 20 and half-past seven. I was back by half-past seven.

Q. How long had it been out?

A. It was not cold; it could not have been out long.

Q. How long had it been since you had been back there to it before?

A. Not from the time I put it there.

Q. Was that the first time you went back to look, it was out? A. Yes.

MR. HAYDEN: I want my objection to run to all these questions about the stern light.

Q. After you lit that stern light, what did you do?

A. I went back up on the bridge and struck three bells.

Q. What bridge?

A. Well I didn't strike the three bells; I went in and took the wheel. We have an agreement between the quartermasters that when we strike the wheel, the one up overhead strikes it.

Q. That was what time? A. Half-past seven.

Q. What did you do after that?

A. Took a bag of coal forward to the bogy.

Q. What was the next thing?

A. I came aft then on the bridge, waiting for the one bell.

Q. On the lower bridge? A. The lower bridge.

Q. Waiting for the eight o'clock.

A. No, for the one bell.

Q. That would be what hour?

A. Quarter to eight.

Q. What was the next thing you did?

A. Well, I shifted over to the other side pretty quick.

Q. Which side? A. Starboard.

Q. What for?

A. Well, if you saw a horse coming into you, would you shift.

Q. You saw the other boat apparently coming into you at that time? A. Yes, sir.

Q. About the time you expected the quarter to eight bell?

A. About the time I was going to see whether it was a quarter to eight.

Q. Did you go to see?

A. I went in at 23 minutes to eight.

Q. By the ship's clock; how much slower was that than the ordinary time on the sound?

A. I could not tell.

Q. Didn't you have a watch? A. Yes, sir.

Q. Did you have it set by local time?

A. No, by ship's time.

Q. How long was it after you saw the time 23 minutes to eight that this collision came?

A. I just came out of the wheel house, and I thought she was on top of us, and I shifted over to the other side.

Q. You came out of the wheel house on the port side? A. Yes, sir.

Q. And saw this other vessel pretty near on top, so close you knew there would be a collision?

A. I knew if she didn't shift pretty quick there would be.

Q. It was close enough so that you ran, expecting a collision? A. I didn't exactly run.

Q. You went across to the other side because you thought that there would be a collision? A. Yes, sir.

Q. That was the first time that you had paid any attention to the ship ahead?

A. Oh, no; I had seen her there before.

Q. There wasn't anything unusual about it prior to that, so that you did not pay any especial attention?

A. Oh, yes, there was.

Q. Did you notice anything unusual about the ship ahead of you before you went in the wheel house to see the time? A. Oh, yes.

Q. What did you notice?

A. I noticed it; she had her green light to our red, and that is unusual, in a narrow channel like that.

Q. How far away did she seem to be?

A. I couldn't say; a mile or a mile and one-half away.

Q. If it was that far, it would not be unusual for her to show her green light to your red? A. Yes.

Q. They often cross your path in the inland waters like this?

A. I never saw it, unless they are so far ahead—

Q. I am talking about a distance of a mile or mile and a half? A. Yes.

Q. There would be nothing unusual to see a green light ahead that far, in an inland water?

A. That is, if she was right ahead.

Q. Which way was she?

A. Way off on our port bow.

Q. Way off on your port bow? A. Yes.

Q. Pretty nearly broadside of your port bow, apparently crossing the course? A. No, not broadside.

Q. How far off of your port bow?

A. She seemed to be three or four points off.

Q. Did you stop and look at her? A. Oh, yes.

Q. How long did you stand and look at her?

A. Oh, about five minutes I suppose; it seemed like that to me at any rate.

Q. Did your ship give any whistles at that time?

A. Yes.

Q. Did you pay any attention to those whistles so that you know how many were given? A. No.

Q. Did you notice whether your ship was changing her course?

A. I heard the pilot sing out port.

Q. How many times did you hear that?

A. I remember once; I could not say as to any other time.

Q. You were on the deck below the pilot?

A. Yes, sir.

Q. When the collision actually occurred you had got across on the starboard?

A. I was just about by the telegraph.

Q. On the lower bridge on the starboard side?

A. On the lower bridge.

Q. What did you do immediately after the collision occurred? A. We all sat down.

Q. What was the next thing you did?

A. Then the cry came to get the boats ready?

Q. Did you help get them ready?

A. Yes, I took the covers off.

Q. On the starboard side?

A. No, the port small boat.

Q. Who helped you get that out?

A. Three or four chaps there.

Q. Did you assist with taking out and relighting the starboard light, the green light? A. No, sir.

Q. Did you see anybody else doing that? A. No.

Q. You knew that the starboard light was out, didn't you? A. No, sir, I did not.

Q. Do you mean to say you did not know the star-

board light was out after the collision, and that one of the men relit it? A. I did not, sir.

Q. Where did you get the wicks you put on these lamps? A. From the third mate.

Q. Do you know where he got them? A. No.

Q. You didn't see him get them? A. No, sir.

Q. Don't they keep those wicks in the lamp room?

A. Oh, no.

Q. Did you have anything to do with taking down these lights or cleaning them afterward?

A. I did not touch them.

Q. Have you ever touched them since? A. No, sir.

Q. Or had anything to do with them since? A. No.

Q. Do you know who took care of them afterward?

A. No, sir.

Q. Or who brought them over here?

A. I helped; that is the first time I saw them.

Q. You helped to bring them over from Victoria?

A. Yes, sir.

Q. Did you take them out of the lamp room when they were brought here from Victoria? A. No.

Q. Do you know whether these are the same lights you lighted that night?

A. Well, I should say they were. There was only one set.

Q. But do you know whether these are the same lights you lit that night?

A. This is one, I know that, and I expect the others are.

MR. HAYDEN: Look at them and see.

A. Yes, sir, they are all the same.

MR. HUGHES: Do you know who took these lights down that night after you got to Tacoma?

A. No, sir.

Q. You did not take any of them, not even the stern light? A. Not even the stern light.

Q. Do you know who cleaned them afterward?

A. No.

REDIRECT EXAMINATION.

(BY MR. HAYDEN.)

MR. HAYDEN: Now without waiving my objec-

tion to the immateriality of the testimony relative to the after night, I will ask Mr. Taylor :

Q. What did you do with the stern light when you put it out, as to regulating it and fixing it, so that it would burn?

A. There did not happen to be any wind around and I lifted the top up like this (indicating), so as to give it more ventilation, so that it would burn better.

MR. HUGHES: When you relit it, you did that?

A. No, when I relit it I put it down; that is the reason it went out.

MR. HAYDEN: What made it go out?

A. I think going around the points and curves, it got too much wind.

Q. And blew it out? A. Yes, sir.

Q. Mr. Hughes asked you if you did not know that the starboard was out. I will ask you whether or not you knew it was burning immediately after the collision?

A. Just after we got the port boat ready for swinging out I went over to take the cover off the starboard boat, and I was outside of that starboard boat, and the green light was burning then.

Q. Is colza oil the usual kind of oil burned in sea-faring business, with these side lights and masthead lights?

A. It all depends on the owners. Some believe in it and some do not.

Q. It is a usual oil? A. It is a usual oil.

MR. HUGHES: I object to this as leading.

Q. Is it or is it not frequently used, if you know?

A. I have been on several ships where they used it.

Q. You spoke about dinner; what hour do you have dinner on board your ship?

A. From 12 o'clock to one.

(BY MR. HUGHES.)

Q. You have had a good deal of experience in filling and trimming lamps on the various ships you have been on, have you? A. Yes, sir.

Q. What kind of oil have you usually had on ships for the side lights and masthead lights?

A. Well we will say six boats out of ten will use paraffine.

Q. And what other kind of oil is used? A. Colza.

Q. Besides colza and paraffine?

A. There is what they call cera oil, a kind of a wax.
(Witness excused.)

MR. JOHN R. WALTERSON, a witness called and sworn in behalf of the Libelant, testified as follows:

DRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. What is your name? A. John R. Walteson.

Q. How long have you been going to sea?

A. About 14 years.

Q. What was your position on the Strathalbyn on the night of the collision with the Virginian?

A. Bo'son, sir.

Q. How long have you been with the Strathalbyn?

A. Six months and three weeks, I think.

Q. You have been bo'son all the time?

A. Bo'son all the time, sir.

Q. In making the ship ready for sea, did you have anything to do with the lashing of the cargo?

A. Yes; I saw the cargo lashed, and likewise helped lash it.

Q. Please describe how the cargo is lashed?

A. After all the lumber is on board, we lower the derricks down and take these spans off the derricks which hold them up; put the two ends on the deck, or the stanchions, or whenever an eye bolt may be, and take up the bight with the block on each side, and reve the chain back and forth, and set it up with the winches; set it tight.

Q. You make sort of bridles out of those?

A. Yes, bridles.

Q. Where are both ends made fast?

A. Made fast to a bight taken up on the lumber; a block on the bight.

Q. The same on both sides? A. Yes, sir.

Q. And then you reve the wire rope through these blocks? A. Yes, sir.

Q. How do you set them up?

A. After you are through you have another block

on the forecastle head, make a straight lead to the windlass end and heave it tight.

Q. Were you engaged in the work during the afternoon?

A. During the afternoon, right up to the time we hove anchor.

Q. Do you put anything on to the stanchions to hold them in place?

A. Guys, that is on the derrick, and tackle with the wire at the end. If we haven't enough of them, we put on small tackles from one to the other.

Q. How are those stretched across the deck?

A. From stanchion to stanchion; made fast around the stanchion, and then set up with the tackle.

Q. With a block on each separate piece?

A. Two blocks for each two stanchions.

Q. To each of these ropes that are attached to the stanchion and block in the end?

A. There are two blocks between each two stanchions; you have more power and set it tighter.

Q. When you have these pieces running from each of the stanchions, then you reve a wire rope through the blocks and heave that tight again with the winch?

A. With the winch, yes.

Q. The same as you do with the bridles?

A. The same as with the bridles, yes.

Q. Have you done that same thing before?

A. On lumber ships; I have been on several lumber ships; it is all the same thing.

Q. Do you know what the effect of that is on the timber cargo?

A. It draws it altogether; draws it tight.

Q. How much would you think it would draw the lumber cargo such as was on the Strathalbyn, together?

A. Oh, six inches; towards the center, together.

Q. After you had finished that work, what did you do?

A. I stood by the forecastle head, and then to see that the anchors was up.

Q. After the anchor was up, what did you do?

A. Stood by there a bit until all was clear, and then went to my room.

Q. Where is your room?

A. On the port side forward. On the port side of the alley-way, forward.

Q. In the forecastle head?

A. Yes, in the forecastle head.

Q. What were you doing at the time of the collision?

A. I had just gone to get some water to wash myself when it took place.

Q. What did you do after the collision?

A. I rushed on deck then; I looked around the bow at the damage, and then to get the boats ready.

Q. What boats did you get ready?

A. The first, the port boat, and then the starboard boat, life boats, and after that the port small boat.

Q. How many boats have you on the port side?

A. Two on each side.

Q. How many life boats on the port side? A. One.

Q. Where is this small boat you mentioned, located?

A. On the chart room deck, or lower bridge deck.

Q. Where is that with respect to the port light?

A. Just abaft the light.

Q. Did you notice the port light after the accident?

A. I did when I put out the boat, on top of it then.

Q. Did you notice how it was burning?

A. Burning bright then.

Q. Did you notice any other lights on this vessel immediately after the accident?

A. I saw the masthead light, as soon as I rushed up the ladder from the room.

Q. How did that appear to be burning?

A. Burning bright then.

Q. Are you the bo'son who brought these lights from the ship?

A. Yes, I gave the lights to the men to carry.

Q. Do you know whether these lights in evidence here are the lights used on the ship that night?

A. Most certainly, the same lights.

CROSS-EXAMINATION.

(BY MR. HUGHES.)

Q. Are these lights now in the same condition they

were in when taken down that night on your arrival at Tacoma?

A. The same condition; exactly the same except there is no oil in them now. I took out the oil to make them lighter to carry.

Q. Is that the reason you emptied them?

A. Yes, sir.

Q. Did anybody instruct you to empty the oil out?

A. The chief officer told me I might empty them to make them lighter to carry.

Q. He did not tell you he wanted the oil out so that there would not be any oil here to sample?

A. Oh, no, but to make them lighter.

Q. Did you help take the lights down that night?

A. No.

Q. Did you order anybody else to take them down?

A. I ordered some of the sailors to take in the lights.

Q. Do you know who did it?

A. No, they were all on deck.

Q. Do you know who put the masthead light down?

A. No, I do not.

Q. Do you know how many times if at all the stern light went out?

A. I didn't know it was out at all until now.

Q. Do you know whether any other lights went out that night at all at any time?

A. I never heard of any.

Q. You say you saw the masthead light when you started, after the collision, to climb up over the deck cargo?

A. Yes, sir; I saw the light as I came up the ladder.

Q. And when you took down the port life boat, you saw the port light?

A. The port small boat; it is right alongside the light.

Q. Those were the only two lights you observed?

A. Those were the only two lights I saw.

Q. You also helped to take down the starboard boat?

A. The starboard was not out, that is the small boat.

Q. But the life boat? A. The life boat, yes.

Q. This man Taylor also helped you, didn't he?

A. On the life boat, yes.

Q. When taking that down, you didn't see the star-board light?

A. No, we were too far aft on the life boat; you can see it on the small boat.

Q. You were behind the starboard light where neither you nor he nor anybody could see it?

A. He could see it on the small boat, not the life boat. We only took the cover off the small boat to make it ready. Two men can do that; I was not there.

Q. After you had this ship loaded, were the stanchions on either side up against the rails of the ship on each side? A. Yes, sir.

Q. It was loaded the same forward as aft?

A. I expect so.

Q. I show you this exhibit number 4, that is a photograph of the Strathalbyn, is it? A. Yes, sir.

Q. Showing the saloon cabin, saloon deck and lower bridge and rail of the upper bridge?

A. Yes, I believe so.

Q. Now you were in this room yesterday, were you? A. Yes.

Q. You heard me ask one of the witnesses whether he was there when Mr. Moodie was there on the boat when the photographs were taken?

A. Yes, I heard that.

Q. You saw Mr. Moodie, did you?

A. I saw him. I didn't know whether it was Mr. Moodie or not.

Q. You talked to him?

A. No, I did not have anything to say to him at all.

Q. Well he spoke to you?

A. No, he did not talk to me; I was there in the group, but he did not talk to me personally.

Q. Didn't he ask you how high the lumber was, and didn't you say to him that the lumber came up to this molding at the top of the cabin saloon?

A. Certainly not, he did not talk to me personally.

Q. Didn't you say to him that the lumber came up to about the molding on the cabin saloon?

A. No, no gentleman about the ship asked me any such question.

Q. Did you make such a statement to him?

A. No, sir, to no one.

Q. That was the truth, however, wasn't it?

A. No.

Q. How near did it come to it; how close was it piled to the cabin saloon, what space was left between the lumber and the cabin saloon?

A. Three or four inches to stop the chafe of the paint work.

Q. Didn't Mr. Moodie ask if the lumber came up to these port holes, and you answered that it came clear up to here—pointing to the rail or molding on the top of the saloon cabin?

A. No; Mr. Moodie nor anyone else asked me any such question.

Q. How high is that railing on top of the saloon cabin?

A. I don't know; I have not measured.

Q. Is it three or four feet?

A. I don't know, I am sure; about that; I would think about three feet high.

Q. When you went back to take down the life boats, to make ready the life boats, you came back along the port side, didn't you? A. Yes, sir.

Q. That was on account of the list in the ship?

A. On the starboard side.

Q. You followed along the life rope stretched along the stanchions? A. Yes, sir.

Q. Holding fast to that, as you walked back?

A. Yes, sir.

Q. When you got aft, you climbed over that railing on top of the cabin saloon and walked back on the lumber cago until you got to that point and climbed over that railing?

A. No, I passed through here.

Q. But you came down and passed underneath that deck? A. Yes, sir.

Q. Along the saloon? A. Along the saloon, yes.

Q. Then you would have to come down several steps off the lumber and cross on to the saloon deck that

runs along by the cabin saloon underenth the lower bridge?

A. I went under the lower bridge, yes.

Q. Then you went up from there; you went up the stairway? A. On the boat deck.

Q. That would be the same deck as the lower bridge is on?

A. It would be about the same level; they are not connected.

Q. It is behind it? A. Behind it.

Q. Do you know Mr. Lindberg, one of your crew at that time?

A. I did not know him. I saw a new man on the ship, but did not know his name.

Q. You knew who he was?

A. He was shipped as sailor, I suppose.

Q. Did you see him helping put up the starboard light that night?

A. I don't think he did that, or put out any lights at all; I didn't see him.

Q. After the collision I mean?

A. I did not see him.

Q. You did not see him around there?

A. I saw him around the deck, the same as the rest of the men.

Q. Did you see your third officer there?

A. Yes, sir.

Q. What is his name? A. Mr. Sterling.

Q. What was he doing at that time?

A. Standing by, helping to get at the boats.

Q. You say you saw the port light? A. Yes.

Q. Did you see that as you were walking back?

A. As I was coming back the second time after the boats were lowered, when I put out the small boat.

Q. It was burning just the same as the other lights?

A. Same as any ordinary lamp should burn.

Q. Could you see that as soon as you got here on the deck cargo? A. The port light?

Q. Yes?

A. As soon as I got out to the rail, to the outside, the stanchions.

Q. You did not walk back outside of the stanchions?

A. I could not walk outside.

Q. You could not walk very well in the air?

A. Not very well; haven't tried that.

REDIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. How tall are you?

A. Six feet and one-half inch.

Q. After this vessel got to Robinson's Point were you one of the men who got down in the boat and went around the bow to investigate?

A. Yes, sir, the port small boat.

Q. Did you observe the lights of the vessel at that time?

A. I could see the light as we passed.

Q. Did you see the port light and starboard?

A. I saw the port light as we were passing along the port side, from the place where the boat was lowered and came around the starboard side and saw the starboard light.

Q. They were burning at that time?

A. They were burning bright at that time.

Q. Mr. Hughes asked you if the stanchions were up against the rails when they were placed in position. Do you remember what if anything was underneath the port rail? The water service pipe.

Q. Did that project out or was it inside the inner edge; that is the inward edge of the bulwark rail?

A. Aft the engine room it is free from the back in; further along it is about an inch and a half projecting out, right forward.

Q. Do you know whether the stanchions rested up against that pipe?

A. There were square blocks of wood about a foot long and an inch thick put back of the stanchions to protect the pipe.

(Witness excused.)

MR. ARCHIBALD STERLING, a witness called and sworn on behalf of the Libellant, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. What is your name? A. Archibald Sterling.

Q. How old are you? A. Close to 21.

Q. How long have you been going to sea?

A. Five years.

Q. How long have you been with the Strathalbyn?

A. Seven months.

Q. What is your position aboard the Strathalbyn?

A. Third mate.

Q. Have you been third mate ever since you joined her? A. Yes.

Q. Were you on watch the night the vessel left Tacoma? A. No.

Q. When did your watch cease?

A. I was on duty until the chief officer relieved me on the bridge.

Q. About what time did he relieve you?

A. I could not state the exact time, but approximately half-past six.

Q. About a half an hour after you left Tacoma?

A. Yes, sir.

Q. Then you went to your room? A. Yes, sir.

Q. Where were you at the time of the collision?

A. I was in the second mate's room, below the lower bridge on the port side.

Q. Did you feel the shock of the collision at all?

A. Yes, I was standing at the time of the collision, and had to set down on the settee.

Q. After the collision, what did you do?

A. I immediately went up on the lower bridge.

Q. How long do you think it was after the collision before you got to the lower bridge?

A. About a minute.

Q. What did you do when you reached the lower bridge?

A. I looked at the light, the port light first and the starboard next, and looked up and saw the reflection of the masthead light on the stay.

Q. After that what did you do?

A. I obeyed the order from the bridge to get the port boat ready.

Q. Which boat was that? A. The port small boat.

Q. How long do you suppose it took you to get that port boat ready.

A. I could not give the exact time, but it was all ready within a quarter of an hour.

Q. Did you have any trouble with the falls being tangled?

A. Yes, I had some trouble with the after fall; somebody, I don't know who, lifted the fall out the wrong way.

Q. What was the effect of that?

A. It got tangled.

Q. Is that the boat that was subsequently lowered, and the men went around the vessel in?

A. That is the boat.

Q. What did you do after that?

A. I stayed on the lower bridge for some time waiting any orders that might come from the bridge.

Q. Do you remember the starboard light being out?

A. Yes, sir, long after the collision.

Q. About how long after?

A. I couldn't give the exact time, but about an hour and a half after the collision, I would say, or between Robinson's Point and Tacoma.

Q. Had you been on the beach at Robinson's Point?

A. Yes.

Q. How long do you suppose you were on the beach at Robinson's Point? A. I could not say.

Q. An examination had been made of the bow by the men in the boat, had it? A. Yes, sir.

Q. What did you do in connection with the starboard light?

A. I heard someone from the bridge say that the starboard light was dim, so I said to the sailor standing there at the time, I don't know who it was, to take it in and trim it.

Q. Did you see him take it out of the screen?

A. Yes, sir.

Q. How did it appear when he took it out of the screen? A. It was burning dimly.

Q. Did he take it in and trim it?

A. Yes, the sailor did.

Q. Did he put it back again? A. He did.

Q. Did you see him put it back again? A. I did.

Q. Is that the only time you know of of that light having been touched after the accident?

A. That is the only time.

Q. Or before the accident, from the time you left Tacoma?

A. I don't know anything about that, whether it was trimmed before the accident or not. I was below.

Q. After the accident, that is the only time?

A. That is the only time I had anything to do with it.

Q. What did you do after that?

A. Some time after that I got the bo'son and told him to take down the masthead light and have a look at it.

Q. That is Mr. Walterson? A. Yes, sir.

Q. Did you notice that he did so? A. I did.

Q. Did you go forward at that time to see the mast-head light? A. Yes, sir.

Q. Did you observe it? A. Yes, sir.

Q. What was done with it?

A. He simply lifted the top and looked in and put it up again.

Q. He did not trim it? A. No.

Q. Or touch the wick? A. No.

Q. Is that the only time that you know of the mast-head light having been looked at, after the accident?

A. Yes, that is the only time.

Q. And that was after your attention had been called to the starboard light being dim and you had fixed it? A. Yes, sir, it was after.

Q. Did you hear the whistles that were being given? A. Yes, sir.

Q. Can you tell what whistles were given?

A. I did not pay any attention to the whistles, but I heard two short blasts with an interval between them, and then I heard the danger signals shortly after that.

Q. You only remember hearing two blasts?

A. I only remember hearing two.

CROSS-EXAMINATION.

(BY MR. HUGHES.)

Q. Were you ever in a ship before, in a collision?

A. No, sir.

Q. That was your first experience in collision?

A. Yes, sir.

Q. It was quite dark around there, wasn't it?

A. What do you mean.

Q. The night was quite dark, wasn't it?

A. It was dark.

Q. The place was strange to you; you did not know how far you were from land? A. That is true.

Q. There was a good deal of excitement around there after the collision?

A. There was some excitement.

Q. As is usual in such cases, and generally, they were running back and forth rather aimlessly, weren't they? A. That is so.

Q. You would not undertake to state just what occurred there, or what the order of events was, would you?

A. I could not state clearly what the men were doing.

Q. You do not know whether the masthead light was taken down any other time that night aside from the time you have recounted, do you?

A. No, I do not know.

Q. Did anybody tell you to order the bo'son to take that masthead light down? A. No.

Q. You did it on your own motion?

A. I did it, yes.

Q. The light looked dim enough so that you thought you ought to take it down?

A. No, sir, it did not. I took it down as a precaution.

Q. Wouldn't that be a strange precaution, for a third mate to take, unless something prompted?

A. No, it is not strange at all under the circumstances.

Q. Were you up on the cargo deck when you ordered it done?

A. No, I was on the lower bridge at the time.

Q. Had you been up on the cargo deck under that light? A. No.

Q. Had you been in the small boat that went around the ship? A. No, I was not.

Q. Had you been forward of the masthead light at all? A. Not that I remember.

Q. Had anybody else suggested to you that you better take that masthead light down and have it examined? A. Nobody suggested it to me.

Q. You say you had noticed the reflection of the light against the forerigging or stays?

A. The fore-stay.

Q. You had noticed it prior to the time you ordered it down? A. Yes, sir.

Q. Some time prior to that?

A. I noticed it when I first looked up from the lower bridge after the collision.

Q. It was a pretty exciting time for you to make observations of that kind, wasn't it, a distance of 40 or 50 feet behind the masthead light?

A. That is what I did.

Q. The only way you could see anything of the light was by whatever reflection it made against the forestay, wasn't it? A. Yes, sir.

Q. Did you go up to see what the bo'son did?

A. I did.

Q. You went up on the deck cargo then?

A. Yes, sir.

Q. Followed him out there and saw him take it down? A. Yes, sir.

Q. Did he climb up to release it or could he do it from the deck cargo?

A. He could do it from the deck cargo.

Q. By the use of the pulley? A. Yes.

Q. So that all he had to do was to lower the rope by letting go the fastening at the pulley?

A. Yes, sir. He had to let go the stays first.

Q. What stays?

A. The stays that run through the rings here.

Q. Had he done that before you got up there?

A. I saw him do it.

Q. Where were they made fast?

A. To the lumber.

Q. So that when you ordered him, you were on the bridge? A. Yes, sir.

Q. Where was he?

A. I do not remember exactly, but he was near me; possibly on the deck cargo.

Q. So that he could get there before you?

A. Yes, he could.

Q. And he would get the first stays down before you could do anything, wouldn't he?

A. Well I might follow him.

Q. But you would have to go down off the bridge and go over onto the lumber and forward 40 feet?

A. No; I just stepped from the lower bridge.

Q. But did you go up to the foremast?

A. No, I did not.

Q. Then if you did not, you would be forty feet back of him? A. No.

Q. The foremast is forty feet or more in front of the bridge?

A. I went towards the foremast, but did not go up.

Q. He had to go up the foremast?

A. He had to go to the foremast, but not up it.

Q. But up to where the foremast came up to the lumber? A. Yes.

Q. But you did not go up there?

A. Yes, I went with him.

Q. Did you go clear up to the foremast?

A. I went along with him.

Q. He loosened the rope where it was looped at the pulley and let down the lamp at the cargo deck?

A. Yes, sir, he did.

Q. That is on top of the cargo? A. Yes.

Q. And examined it to see how it was burning?

A. He did.

Q. Did you notice what position these caps were in at that time when he let it down? A. Yes, sir.

Q. What position were they in?

A. The same as now.

Q. Lifted up a little? A. No, down.

Q. They were down then entirely? A. Yes, sir.

Q. So as to shut out any draft at all? A. Yes.

Q. Did he lift them up so as to give them better draft? A. Not that I know.

Q. You would not say that he did not do it?

A. I know he lifted the top up and had a look at the lamp and then put the cap down again.

Q. Did he open the lamp from behind? A. No.

Q. Did he burn the wick at all? A. No.

Q. Are you sure he did not?

A. I am quite sure he did not.

Q. Then he just hauled it up again? A. Yes.

Q. Right away? A. Yes, he did.

Q. When you gave him the order, what did you tell him?

A. I told him to take down the masthead light and have a look at it.

Q. You did not order him to go up and have a look at it simply without taking it down? A. No.

Q. You told him to take it down and have a look at it? A. I did.

Q. If he had gone forward and looked up at it he could have seen whether it was burning all right without taking it down?

A. He could see the lamp better if he took it down; and what I wanted him to do was to see that the lamp was burning brightly.

Q. And the reason was that you had found some of the other lamps, particularly the starboard lamp, had been burning very dim, and you wanted to see how this was; was that it?

A. No, that was not the reason.

Q. You thought he could not tell by getting in front of it on the cargo and looking up at it, whether it was burning brightly or not?

A. I did not think anything of the sort; I told him simply to take the lamp down.

Q. When was this, before or after you left Robinson's Point?

A. This was between Robinson's Point and Tacoma.

Q. How far were you this side of Robinson's Point toward Tacoma? A. I do not know.

Q. How long had you left Robinson's Point?

A. I do not know.

Q. You have no idea? A. No.

Q. Fifteen or twenty minutes? A. Longer.

Q. Half an hour? A. Longer.

Q. Three-quarters of an hour?

A. It would be longer than that.

Q. An hour; how long did it take to come in from Robinson's Point?

A. I know we finished tying up at the Government buoy about half-past one, but I cannot tell how long it took us.

Q. What time did you leave Robinson?

A. I do not know.

Q. Have you any idea? A. None whatever.

Q. Well you left there about half-past ten, didn't you? A. Possibly.

Q. How long was the bo'son engaged in examining this lamp; was it long enough to make a thorough and careful examination of it? A. Yes.

Q. Five or ten minutes altogether?

A. Five minutes would do it.

Q. But what occurred on this night?

A. I couldn't give you how long, but he took it down, had a look at it and put it up again. It is only a five minutes job.

Q. Was it just before this that the starboard light was taken out?

A. It was after I ordered the starboard light trimmed.

Q. How long was it that you ordered the starboard light trimmed before the masthead light was taken down? A. I could not give the exact time.

Q. Approximately?

A. Approximately five minutes, shortly after.

Q. Then you must have been a mile or two this side of Robinson's Point when this was done, you think?

A. I do not know.

Q. You haven't any idea just where you were?

A. I have no idea where I was at the time, or where the ship was rather.

Q. The fact is you don't know very definitely just when or where these things occurred do you?

A. That is true.

Q. Did you say that you had an order from the bridge to fix your starboard light? A. Yes.

Q. Who gave you that order?

A. I do not know.

Q. Don't you know the voices of the officers?

A. I know their voices, but I don't remember who gave the order. I know it came from the bridge.

Q. Was that because of the excitement, you certainly would know but for the excitement existing, the voice of one officer from another?

MR. HAYDEN: We object to that as improper cross-examination.

Q. Isn't that true?

A. I do not say that it is or is not, but the fact remains I heard the voice and obeyed the order, not knowing whose voice it was.

Q. You took the lamp out yourself, didn't you?

A. No, I did not.

Q. The man who lighted it and took it in the cabin didn't take it out, did he? A. He did.

Q. He testifies that you took it out and he took it in the cabin and lighted it?

A. He did not take it into the cabin; he took it into the wheel-house.

Q. Yes, the wheel-house. Did you do anything to the port light? A. Nothing at all.

Q. Do you know whether anybody else did at that time? A. Not to my knowledge.

Q. You say when you followed the bo'son up to the foremast, when he took down the light, and you gave him that order where, on the lower bridge?

A. Yes, I was on the lower bridge at the time.

Q. Did you climb over that rail and down out of the cargo and follow him forward? A. I did.

Q. About what is the height of that rail?

A. It is about three feet one, approximately.

Q. It is nearer three and one-half, isn't it?

A. No, I don't think so.

Q. You could step over across on to the cargo?

A. Well I would have a little bit of a jump.

(BY MR. HAYDEN.)

Q. You spoke about the wheel house; was there a light in the wheel house?

A. There may have been a small bulls-eye.
(Witness excused.)

MR. J. R. WALTERSON, being recalled, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. State what happened in connection with your examining the masthead light?

A. The third officer gave me orders to lower the light and look at it. Of course I had a man there and told him to lower it down, and he dropped it down like that and I looked down and saw the light was burning bright, and up it goes again; that is all.

Q. You did not take the lamp out yourself?

A. No, I just lifted it up and saw it was burning perfectly bright and told him to hoist it up again.

Q. State how you put the top down?

A. I just lifted it up like that, and put it down like that (indicating).

Q. You put it down in the ordinary way?

A. Yes, in the ordinary way.

Q. Whereabouts was the steamer at that time, the Strathalbyn?

A. About half-way, I would think, as far as I can recall—half-way between the point of collision and Tacoma.

Q. That is Robinson's Point you mean? A. Yes.

Q. Do you know whether you had been on the beach at Robinson's Point before that?

A. Yes, before that took place.

Q. How long would you say after you had been on the beach that this examination of the light took place?

A. I would say about an hour and a half after.

CROSS-EXAMINATION.

(BY MR. HUGHES.)

Q. How long were you on the beach?

A. About five or ten minutes I would think, not long.

Q. How fast do you think you traveled that night after the collision on your way back to Tacoma?

A. I don't know.

Q. A couple of knots an hour?

A. I don't know; I have no idea at all.

Q. None whatever?

A. No idea whatever; it might have been one or it might have been six.

Q. You say this occurred after you left Robinson?

A. An hour and a half after we were on the beach.

Q. Had you gone two miles you think?

A. I expect we had; perhaps more.

Q. You think you made over a knot and a half an hour?

A. We went very slow, but I haven't any idea.

Q. Now who was there with you when you took the light down? A. One of the sailors.

Q. Anybody else?

A. The third mate was around there.

Q. Was he up by your side?

A. Close by; I said the light was all right.

Q. How near was the third mate to you?

A. It might have been three or four feet.

Q. But do you know?

A. Standing there where we could talk to each other.

Q. Who did you order to take the light down?

A. One of the sailors.

Q. What was his name?

A. I do not know; the one who was handiest there.

Q. You do not know who it was? A. No.

Q. The sailors were not on top of the lumber cargo?

A. They were around the decks all right.

Q. They would not be around there unless ordered?

A. Three or four would be.

Q. What would they be on the lumber cargo for?

A. They had to be on top somewhere; there would be three or four around there, and perhaps two or three around the galley.

Q. You don't know who it was?

A. No; there were men there and I ordered one to do it.

Q. You didn't lower it yourself? A. No, sir.

Q. You saw him; did you order him before you got up there to let it down?

A. No, when I came there, there were two or three there, and I said, lower the light, and one of the men did it.

Q. Did you go in front of the mast to look at it before you ordered it down?

A. No, I just gave the order to lower it as I came along, and by the time I got there the light was nearly down.

Q. So that as you walked toward the foremast you ordered some fellow to lower the light, and by the time you got up there the light was down?

A. Pretty near down.

Q. Did you see him or was it pretty dark?

A. It was dark; there was no lights around there, only the masthead light.

Q. You could not see anything, only that you could see the light coming down?

A. I could see the man holding the halyards and lowering it.

Q. There would not be any light shining there until the masthead light would be pretty well down?

A. The man was up the rigging; the masthead light was up there, and we were standing around.

Q. You could see him standing up in the rigging?

A. Yes, sir.

Q. And letting it down? A. Yes, sir.

Q. Did you stand there and see him haul it up again?

A. Yes. I stood there a few minutes and held the wire guys until he pulled it.

Q. You held them, to keep it steady?

A. He hauled up the halyards; I had my hand on the wire guys.

Q. You took the guys and held them so that it would go up steady? A. Yes, sir.

Q. When he got it up, he made fast again the rope around the rigging and that held the lamp in place?

A. Yes, sir, that held it up in place.

Q. Now you did not turn up the wick?

A. I did not touch it. I lifted the top and looked down, saw it was burning all right and hoisted it.

Q. You say you put it back like this (indicating).

Now the top is raised a little; did you put it clear down tight?

A. Not like that; I did not slip it in, like that.

Q. You left it loose, not tight?

A. About like that.

Q. Was it loose before or was it down tight?

A. About the same as it is now.

Q. Are you sure it was not down tight so that it clamps?

A. It might have been down tight, but I don't know; but when I left that, I left it like that.

Q. But when you opened it, it was down tight?

A. I don't know whether it was or not; I cannot recall.

Q. And you left it loose so that it would have ventilation?

A. I was finished then.

Q. The reason you left it that way was so that it could have a little ventilation?

A. All lamps need a little ventilation like that.

Q. You did not examine the globe at all, but just looked at it from the top?

A. Just looked down from the top.

(Witness excused.)

1 o'clock P. M. Friday, February 16, 1912.

MR. JOHN SANDILANDS, a witness called and sworn on behalf of the Libelant, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. What is your name? A. John Sandilands.

Q. How old are you? A. Fifty-seven.

Q. What is your business? A. Marine engineer.

Q. Were you the chief engineer on the steamship Strathalbyn? A. Yes, sir.

Q. On the night of the collision with the Virginian?

A. Yes, sir.

Q. How long have you been with the Strathalbyn?

A. About 20 months.

Q. Were you in the engine room at the time of the collision with the Virginian? A. I was, sir.

Q. How long had you been there?

A. From the time I left Tacoma, with the exception of an interval of two or three minutes altogether before the collision.

Q. Did you note the revolutions that the engines were making during this time from Tacoma to the time of the collision?

A. Yes, I think I noted them three or four times.

Q. Do you know how many revolutions she was making the first time you took them?

A. About 50 I think per minute.

Q. Do you know how many the second time?

A. Forty-five I think it was; yes, forty-five.

Q. Do you know what she was making shortly before the collision?

A. From 45 to 46; I would not be exactly certain.

Q. What speed would she make on those revolutions? A. I would call it three-quarters speed.

Q. What is the regular speed, do you know?

A. She averages about eight or eight and one-half, nine, nine and a half, depending on the weather, and the conditions, whether loaded light or not.

Q. What then in good weather like you had that night, clear like that?

A. I would think about five or six knots on an average.

Q. At those revolutions?

A. At those revolutions, yes.

Q. Do you know the time she left Tacoma?

A. Somewhere about six. I have it down on the log book, six or six-five.

Q. Do you know the time you got the signal to stop just shortly before the collision?

A. Yes, I took particular note of that. I think it was 7:34 by the engine room clock.

Q. And when you got that signal to stop were the engines stopped? A. Yes, sir.

Q. Promptly? A. Promptly.

Q. Do you know the time the collision occurred by the engine room clock? A. Yes, sir.

Q. What time was it? A. 7:38.

Q. Did you receive a telegraph signal to reverse the engines at any time before the collision?

A. Yes, sir.

Q. At what time was that, if you know?

A. Seven thirty-seven.

Q. Who was on watch at the engines that same night?

A. There was the second engineer and the fourth.

Q. They are both here now? A. Yes, sir.

Q. What is your system of keeping a record of the movements of the engine?

A. We have a blackboard close by the engine clock. As the signals are given they are noted by the clock and put on the board.

Q. Who was at the clock? A. The 4th engineer.

Q. And who was handling the engine?

A. The second engineer.

Q. Were you standing where you could see them both? A. Yes, sir.

Q. From the blackboard how are the records transcribed into the log?

A. They are kept on the log slate, and then put into my room, and I take them off the log slate into the log.

Q. Did you see the recording of these signals as given down there at that time?

A. Yes, sir, I did. At the time of the collision I drew the fourth's attention, to be particular in noting down the exact moment it occurred.

Q. And what did he do in connection with that?

A. He did so. He put the mark across the figure at the time it happened.

Q. When you received the signal to reverse, do you know how many revolutions the engine was going on that signal?

A. Well, I could not say definitely, but my experience is it would be going over fifty; perhaps between fifty-four and fifty-five.

Q. Why do you say that?

A. Because I know by the way she was going, and the steam before they opened her out.

Q. Did they open her wide out on the reverse?

A. Yes, sir.

Q. Were you having any difficulty in keeping steam up that night?

A. Yes, sir, I had some difficulty.

Q. You had new coal and new firemen?

A. We had new coal and the firemen were not accustomed to stoking it.

CROSS EXAMINATION.

(BY MR. HUGHES.)

Q. You were not on duty that evening yourself?

A. Oh, yes, sir; I am always on duty leaving port for the first hour or two.

Q. And how long had you been out from port?

A. About an hour and a half before the collision.

Q. You were supervising there and remained there because the engine was having difficulty in developing her ordinary speed? A. Not altogether.

Q. That was partly so?

A. I anticipated that from the new coal. I had taken note of it on the donkey boiler a day or two previous, and naturally I was there to see how it would act.

Q. You thought that from watching the coal as it was put into your bunkers that probably you would have some difficulty in developing steam?

A. At the first go off, yes.

Q. And you found that experience when you came to developing her speed? A. Yes, sir.

Q. The coal you had taken aboard here was not as good a steam coal as you had previously been accustomed to, I suppose? A. No, sir.

Q. And required more stoking and more draft, I suppose.

A. It required more looking after and getting experience as to the best way to stoke. The men were inexperienced with it.

Q. Had you been burning bituminous coal before?

A. No, sir, I had not used that coal before.

Q. Previous to that you had been burning bituminous? A. In the donkey boiler.

Q. This coal was not pure bituminous?

A. It was what they call Lady Wellington, as they gave it to me; supplied at Tacoma.

Q. Did you find it necessary to use more draft or to do more stoking or both?

A. It did not require any more draft. We had good draft. No difficulty with any ordinary coal in keeping up steam.

Q. But you had difficulty with this coal; what was the nature of that coal?

A. A light burning coal, and burns away quick, and leaves pretty considerable ash behind it, and I find now on further experience that it requires to be stoked different from ordinary coal that we have been accustomed to.

Q. Did it require more or less draft?

A. About the same draft.

Q. But has to be stoked differently? A. Yes, sir.

Q. In what respect?

A. It must be fired lighter, and they must keep picking it up.

Q. In other words you found by subsequent experience that on that night you were firing too heavy?

A. Yes, sir.

Q. And for that reason you had not developed more than about three-quarters speed?

A. That is all, sir.

Q. What are the number of revolutions of your engine at full speed, say nine or nine and one-half knots?

A. Nine knots, about 57 to 58, in ordinary weather.

Q. Was there anything unusual in the weather that night affecting the draft? A. None whatsoever.

Q. Or affecting the difficulty of navigation?

A. No.

Q. So that the trouble was in the coal not being adapted to your burners, and not being accustomed to it?

A. Not being accustomed to its use.

Q. You kept your record on the blackboard there?

A. Yes, sir; taken down every 24 hours onto the log slip from the blackboard.

Q. Your custom is for one of the officers to record with chalk on the blackboard anything that takes place in the engine room; any order or direction given?

A. Yes, sir.

Q. Or any change of any kind? A. Yes, sir.

Q. Do you record the speed or number of revolutions? A. Not always.

Q. Did you that night?

A. No. I noted that myself by my watch.

Q. You timed it yourself by your own watch on two or three different occasions? A. Yes, sir.

Q. To see what number of revolutions were being developed? A. Yes, sir.

Q. And the reason for that was to see how this coal was working? A. Yes, sir.

Q. Did you go into the fire room yourself?

A. Yes, sir.

Q. Spend much time in the fire room?

A. Considerable; perhaps half there and half in the engine room.

Q. Did you experiment with it yourself?

A. I supervised the men and what they were doing and advised them what to do.

Q. Were you in the fire room or engine room when the signal was given to stop?

A. I was in the engine room.

Q. You remained there all the time afterward until subsequent to the collision? A. Yes, sir.

Q. Were you there when the bell to stop was given?

A. Yes, sir.

Q. Did your port engineer record it with the chalk on the blackboard? A. Yes, sir.

Q. Did you notice the time? A. Yes.

Q. By the engine room clock? A. Yes.

Q. Was that time the same as your watch?

A. My watch was set the same as the engine room clock.

Q. The engine room was about twenty minutes slower than local time?

A. I do not know; I could not say.

Q. What time have you now; have you the ship's time now?

A. No, I have got Tacoma time I expect; 22 minutes to two.

Q. You have Tacoma time now? A. Yes, sir.

Q. When did you change?

A. I don't suppose I have altered my watch since I arrived here; perhaps a minute.

Q. When did you change from the ship's time to local time?

A. I don't know what the ship's time is now.

Q. But you changed your time. As a matter of fact your ship's time that night was in the neighborhood of twenty minutes slower than local time?

A. I do not know.

Q. Do you remember how much you changed your watch? A. On what occasion?

Q. At any time when changing from local time to ship's time?

A. I did not alter my watch that day at all. I am talking about the engine room clock being set at the same time as the deck, before we started; I know that for certain.

Q. Who set the engine room clock?

A. Mr. Hamilton knows I think.

Q. He set it from the time in the chart room?

A. The second officer gave us the time.

Q. Your engines were immediately stopped on the signal? A. Yes, sir.

Q. In your experience with that ship, laden as it was that night, considering the condition of the weather and water, how far would she travel with the engines stopped and no reversing; suppose you were going at the same rate of speed with that condition of wind and weather, and just stopped your engines, how far would she travel with the load you had?

A. I would not like to say. She would be very near stopped in three minutes interval between the signal and the reversing.

Q. Don't you know as a matter of fact that the ship will run from ten to fifteen minutes before coming to a full stop? A. No, sir.

Q. That it would run for three-quarters of a mile with her momentum alone?

A. I don't believe it, no, sir. My experience is different from that.

Q. How many seconds would it take from a dead

stop to put the revolutions of the engine to the maximum of fifty-five to fifty-eight?

A. From three to five seconds, sir.

Q. Not longer than that?

A. Not longer than that.

Q. Does it take longer to put them full speed astern? A. No, not longer.

Q. The next signal you got after the signal to stop the engine was the signal to reverse, full speed astern?

A. Yes, sir.

Q. Who recorded that? A. The 4th engineer.

Q. Did you turn and watch him record it?

A. Yes, sir.

Q. Did you look at the clock to see?

A. I was not paying much attention after the collision.

Q. I mean before the collision, 7:35?

A. I did not exactly see the moment when the hand was on the clock, but it was about the same distance as this clock, and I saw him go to the clock and mark it down on the board.

Q. He recorded that before the collision?

A. Yes, sir.

Q. Are you sure of that? A. Certain.

Q. Now you felt the shock of the collision?

A. Yes, sir.

Q. Did you know there had been a collision?

A. Yes, sir.

Q. What number of decks is the engine room below the saloon cabin?

A. A considerable number of feet; I would not like to say.

Q. About how much?

A. Approximately twenty feet.

Q. With that ship laden as heavily as it was, the cargo above and beneath the deck fore and aft, did you feel any appreciable shock down there?

A. No, not very much.

Q. You did not know that a collision had occurred, as a matter of fact?

A. Oh, yes, I knew something had struck us.

Q. How long after the collision did you remain in the engine room?

A. I was there mostly all the time.

Q. Did you go out at all to see what happened?

A. I was up there perhaps twice before we got back to Tacoma.

Q. Immediately after you felt the shock, did you go out?

A. No, sir, I stayed below for a considerable time after the collision.

Q. How long after you felt the shock did you tell the fourth engineer to record it?

A. I told him at the moment, when I felt the shock.

Q. And he recorded it right away? A. Yes, sir.

Q. I understand you that that is copied off from the blackboard on a sheet of paper and taken up to your room where you keep the log, and you there record it in the log? A. Yes, sir, on the log slate.

Q. You keep the log slate in your room?

A. No, it is kept in the engine room.

Q. It is first copied from the board onto the log slate with a pencil? A. Yes, slate pencil.

Q. And that slate is taken to your room and you transcribe it into the engineer's log, do you?

A. Yes, sir.

Q. Who copied the entries on the blackboard into the engineroom slate?

A. The 4th engineer, I believe.

Q. Did you see him copy it?

A. No, sir, I did not.

Q. Did he bring it to your room? A. Yes, sir.

Q. When did he bring it to your room?

A. The following Saturday at noon.

Q. What did you do with that slate; did you keep it in your room? A. Yes, sir.

Q. Did you copy it into the log? A. Yes, sir.

Q. Did you make any changes in copying it?

A. No, sir.

Q. None whatever? A. None whatever.

Q. Did you erase what was on that slate?

A. I did, sir.

Q. Were the entries on that blackboard erased also?

A. Yes, sir; after being copied into the slate.

Q. Now you frequently make corrections before you O. K. them, before they are entered into your log?

A. What do you mean?

Q. When the engineers bring copies of their logs to you with their entries on their part, you have to O. K. them before you enter them in your log, in your regular written log book?

A. Of course you don't put every little movement down, unless something happens.

Q. You often make corrections? A. Yes, sir.

Q. Did you make any corrections on that occasion?

A. No, sir.

Q. Did you the next day make any corrections?

A. No, sir.

Q. Do you mean to say you copied that slate word for word into your log without a single word of change?

A. Yes, sir.

Q. Or figure? A. Yes, sir, I do.

Q. What kind of lights did you have in your engine room?

A. That night it was the colza lamps, and paraffine lamps.

Q. You had both colza and paraffine lamps, did you? A. Yes, sir.

Q. How many of each?

A. A good many, I could not tell how many.

Q. Did you have more colza than paraffine?

A. The second engineer can tell about that better than I can. I did not pay much attention to that.

Q. Did you have the windsail on deck for the purpose of carrying the wind down to the engine room?

A. We have four hand ventilators.

Q. Did you have a windsail?

A. No, sir, not that night.

Q. Were your ventilators trimmed?

A. Yes, sir.

Q. Which way? A. I could not tell.

Q. Who trimmed your ventilators?

A. It is generally the firemen, or the trimmer.

Q. You would not get any wind unless your venti-

lators were trimmed, unless you had a head wind; I mean get any air or draft?

A. It depends on how the wind is.

Q. Do you know which way the wind was that night? A. No.

Q. You don't know anything about how the ventilators were trimmed?

A. I could not tell how they were; I know they were trimmed to get the wind; I felt it.

Q. Did you send a fireman to change or trim the ventilators?

A. I don't remember sending them up; they may have gone up; I could not say.

Q. Did you go up on deck yourself at any time to make any examinations there with reference to how your coal was working, as to the ventilators or the stacks? A. No, sir.

Q. Or as to the direction of the wind? A. No, sir.

Q. Yet you knew you were only developing three-fourths speed? A. Yes, sir.

Q. And you were using coal enough to develop full speed? A. I could not say.

Q. How is that? A. No, sir.

Q. Weren't you firing your fires as hard as you could, trying to develop the steam,—you wanted to develop the ordinary speed?

A. Yes, but how could we burn the same amount of coal on three-fourths speed as at full speed?

Q. That is what I am trying to find out,—what steps you took to see about it?

A. I told you the men were not accustomed to stoking it.

Q. It was your business to solve that problem as speedily as possibly, because you were wasting one-fourth of the energy of your coal, weren't you?

A. That may be.

RE-DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. With this coal, they had to put on light shovels full, and spread it out more than ordinarily?

A. Yes, that is what we find out now.

Q. And the men were firing too heavy?

A. Yes, with this coal they should put on less at a time, and it keeps the men busy.

Q. And with the other coal they could put on a greater quantity and then let it burn?

A. Yes. Since going up from Tacoma to Esquimalt we averaged eight knots with the same coal.

Q. Is it the usual thing, after you make your entries on the blackboard and slate and copy them into the log, to erase the sale and blackboard entries?

A. Yes, sir.

Q. The same as was done in this instance?

A. Yes, sir.

(Witness excused.)

MR. HAYDEN: Let the record show, if it is agreeable to you, Mr. Hughes, that the second and fourth engineers are here for you to question them, and if not, take the testimony of Sandilands on those points and not put them on, thus shortening the record to that extent. However, there is one question I would like to ask the fourth engineer, Mr. McGugan.

MR. ALBERT W. McGOUGAN, a witness called and sworn in behalf of the libelant, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. Your name? A. Albert W. McGugan.

Q. The log book shows you started slow ahead at six o'clock, is that the correct entry? A. Yes, sir.

Q. That is leaving Tacoma? A. Yes, sir.

CROSS EXAMINATION.

(BY MR. HUGHES.)

Q. You say you started slow ahead at six?

A. Yes, thereabouts.

Q. You recorded that time on the blackboard?

A. I did, in answer to the telegraph.

Q. When you got a signal to go ahead you made that record? A. Yes, answering the telegraph.

Q. That time was by the engine room clock?

A. The engine room clock.

Q. You have a watch yourself? A. Yes, sir.

Q. You didn't pay any attention to your own time but always went by the engine room time?

A. By the engine room clock.

Q. Did you compare the engine room clock with the ship's chronometer? A. No, sir.

Q. How did you get the time for the engine room clock?

A. It was set in the afternoon by the second officer.

Q. What is his name? A. Murray.

Q. Did you notice whether it was the same as local time? A. I did not notice.

Q. Did you start out before the ship hove anchor?

A. I don't remember, sir.

Q. Did you start ahead slow before you hove anchor?

A. That depends on how we were lying, how we were placed; I was down below and could not see what was going on topsides.

Q. The mate's log says they hove anchor at 6:05; do you think there was any difference between your time and their's? A. There may have been; I know not.

Q. Does your engine room clock show seconds as well as minutes? A. It did.

Q. Do you record seconds when you make a record on the blackboard? A. Not after a half minute.

Q. By some singular coincidence, every signal you got that night, everything you recorded was on the exact minute? A. That may be.

Q. Then you want us to understand that that might be a half minute or so from the exact time?

A. It certainly was not a half minute; it may have been under it, but not over it.

Q. Well if it was more than 30 seconds past the minute, you would record it a minute ahead?

A. Yes, sir, certainly.

Q. If it was less than thirty seconds past the minute, you would record it on the minute back?

A. On the minute back, yes.

Q. How many lights did you have in the engine room? A. Quite a number.

Q. Don't you know how many?

A. I didn't count them. I know the engine room was sufficiently lighted.

Q. Don't you know how many you had; did you have more than usual? A. Yes, more than usual.

Q. Why was it, because the lights were burning brightly?

A. No, they were not burning brightly.

Q. Why did you have more than usual?

A. Because we generally have electric lights.

Q. Did you go into the fire room at all?

A. I was in the fire room on one occasion only.

Q. What did you go in there for?

A. To open a valve.

Q. Did you go up on deck to see how the ventilators were?

A. I was up on deck but not to see how the ventilators were.

Q. What did you go up for? You were on duty there; why did you go on deck?

A. I went up after the collision.

Q. How soon after the collision?

A. Oh, a good while after, I couldn't state the time exactly.

Q. Did the chief engineer give you permission to go? A. I was sent out or I would not have gone.

Q. What for? A. To see what was wrong.

Q. When you were in the fire room were the lights the same as in the engine room?

A. Well, they don't have so many, but it was sufficiently lighted.

Q. How old are you? A. Twenty-two.

RE-DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. Referring now to the time that elapsed between the 7:34 stop signal and 7:37, do you remember whether you were nearer the half minute or the full minute when you recorded those, at the time you received the signals?

A. At 7:34, as far as I can remember, we were just on it.

Q. And how about 7:37, if you remember?

A. We were just on 7:37.

Q. And how about 7:38?

A. I had it exactly correct; the chief engineer called my attention.

Q. In other words it was not 7:38½?

A. No, it was not.

Q. And it was not 7:37½? A. No, sir.

Q. It was 7:38? A. Seven thirty-eight exactly.

Q. As near as you could tell by the time?

A. Yes, sir.

Q. And 7:37, was that as near 7:37 as you could tell? A. Yes, from where I was.

Q. It was not 7:36½? A. No.

Q. Do you remember that?

A. Yes, I remember it.

Q. Was it 7:37½?

A. No, it was not. If it had been 7:37½ it would have been entered as such.

MR. HUGHES.

Q. Where were you standing?

A. Alongside the telegraph.

Q. What direction is that from the clock?

A. Forward.

Q. Do you look straight at it or diagonally across the room? A. Straight at it.

Q. How far away from it?

A. About eight or nine feet I would say.

Q. Were your eyes good enough to see the second hand?

A. No, but I would have to go up close against it, to get at the blackboard.

Q. So that you could not see the second hand?

A. Oh, I think so.

Q. Was there any singular coincidence about the fact that you record in this log the word, "Stand by engines, 5:50," and "Slow ahead six; full ahead 6:05; stop 7:34; full speed astern 7:37; ship collided, 7:38; stop 7:39; full astern 7:40; half astern 8:07; slow 8:20", and so on throughout this entire log without the recording of a half minute or seconds at any time?

A. Yes. I didn't bother much about the half minutes after we struck.

Q. Now, to be perfectly frank, you bothered no more after did you, and no more before than after, did you? A. Yes, we did.

Q. Then you expected a collision that night?

A. No, sir, I did not.

Q. You had no reason to be more careful in one instance than the other?

A. It was my first experience with anything of that kind, and I did not know what was going on. I was a little upset.

(BY MR. HAYDEN.)

Q. You did as Mr. Sandilands told you, to be accurate about putting those items down?

MR. HUGHES: That is objected to as leading.

A. Yes, sir, I did so.

(Witness excused.)

MR. HAYDEN: Now, Mr. Hughes, do you want the second engineer?

MR. HUGHES: No, I don't think so.

MR. HAYDEN: Do you think you want the carpenter?

MR. HUGHES: I think not. Assuming it would be merely for the purpose of corroborating the mate's testimony about the measurements.

MR. HAYDEN: Yes.

MR. HUGHES: If that is the case, I care nothing about your putting them on.

MR. HAYDEN: We have two sailors to testify that they saw the headlight and sidelight burning, and helped out with the port boat.

MR. HUGHES: I couldn't tell anything about that. I don't know what they will testify as to that, and you may use your own judgment, as you know about them.

MR. HAYDEN: Well, I will call them.

MR. JOHN SEMRUK, a witness called and sworn in behalf of the libellant, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. What is your name? A. John Semruk.

Q. How long have you been going to sea?

A. Six years.

Q. How old are you? A. Twenty-one.

Q. How long have you been on the Strathalbyn?

A. Six months and twenty-five days.

Q. You were a sailor aboard her at the time of the collision with the Virginian? A. Yes, sir.

Q. On the watch below? A. The watch below.

Q. In the sailor's forecabin? A. Yes, sir.

Q. Right after the collision did you come out of the forecabin? A. Yes, sir.

Q. Did you notice any of the lights on the Strathalbyn?

A. Yes, I saw the masthead light as soon as I came out of the forecabin.

Q. Did you see any other light? A. The port light.

Q. How did the port light and masthead light appear to be burning? A. They were burning bright.

CROSS EXAMINATION (BY MR. HUGHES).

Q. Did you come out of the forecabin sailor's cabin after the collision or before?

A. After the collision.

Q. How soon after the collision?

A. I should say about a half a minute after she struck.

Q. Had you been called before the collision?

A. Yes, somebody sang out look out, and then she struck.

Q. What were you doing in the cabin?

A. I was sitting writing a letter.

Q. What was the situation there when you came out of the forecabin; is your door right amidships?

A. There is an alley-way between the sailor's and firemen's forecabin, the same as the starboard.

Q. You stepped into this alley-way? A. Yes.

Q. And there was a pile of lumber?

A. Yes, and steps up.

Q. The lumber was high above you? A. Yes.

Q. You could not see any lights until you got up on the lumber?

A. I could see them from underneath, when I came up the steps.

Q. As you came up the steps, you could look up where you could see the masthead light? A. Yes, sir.

Q. Had you helped to put up that masthead light?

A. No, sir.

Q. Now when you got up, could you see the port light?

A. Yes, sir; a man got hurt and he went over to the port rail and I went to him to ask him what was the matter with him, and then I saw the port light.

Q. He had gone over and was holding fast to the rope stretched along the stanchions?

A. No, it was the rail nailed on to the stanchions.

Q. And he had climbed up along that listed cargo to the rail along the inside of the stanchions?

A. Yes, sir.

Q. And you came up and asked him what was the matter? A. Yes, sir.

Q. And while you stood there by the side of him, you looked back and saw the port light, could you?

A. Yes, sir, the port light.

Q. What did you do after that?

A. I went to lower down the boats?

Q. You went back over the deck cargo and fore-cargo to the bridge? A. Yes, sir.

Q. Climbed up over the bridge? A. Yes, sir.

Q. Then went on back to the boats? A. Yes, sir.

Q. On the port or starboard- A. Port side.

Q. Did you help lower the boats on the port side?

A. Yes, sir.

Q. Did you afterward help on the starboard side?

A. Yes, with the life boat.

Q. Wasn't there anybody lowering that when you got over there after you lowered the life boat on the port side? A. Yes, they were.

Q. Had you got it lowered already?

A. No, it was only pulled up.

Q. What did you do after that?

A. We swung it out to starboard.

Q. Then what did you do? A. Stand by.

Q. You stood by on the starboard side?

A. Yes, sir.

Q. Did you afterwards help the bo'son when he took down the masthead light and examined it?

A. Yes, sir.

Q. You did? A. Yes, sir.

Q. You were out on the deck cargo?

A. Yes, sir, I and Cameron.

Q. What were you doing on top of that deck cargo?

A. Cameron lowered down the light, and the bo'son opened the lamp and looked into it.

Q. Cameron lowered it? A. Yes, sir.

Q. Did you do anything?

A. No, I stood by looking.

Q. What did you see Cameron do?

A. He pulled up the light again.

Q. But first what did he do?

A. He lowered down the light.

Q. He unloosened the rope and lowered it down?

A. Yes, sir.

Q. And afterward pulled it up again? A. Yes, sir.

Q. And made the rope fast? A. Yes, sir.

Q. When you were in the forecastle cabin before the collision, a number of other sailors were in there?

A. Yes, sir.

Q. And the bo'son?

A. No, sir; three more sailors.

Q. Wasn't the bo'son there?

A. No, sir; he was in his own cabin.

Q. Were the sailors drinking from a bottle of whiskey there?

A. No; they are not allowed to.

Q. I know that, but I am asking what they were in fact doing; didn't you see them passing a bottle of whiskey around?

A. No, sir; two were playing cards, and me and another fellow were writing letters.

Q. Which cabin were you in?

A. On the starboard side.

RE-DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. How was this man you helped, leaning against the rail?

A. He had his chest hurt, and was leaning forward like this (indicating). I put one arm on the rail and one like this, and asked him what was the matter.

Q. When you saw the light was your head outside the range of the stanchions? A. Yes, sir.

(BY MR. HUGHES.)

Q. You walked back along the stanchions?

A. Between midships and the port side.

Q. Didn't you follow the rail along the stanchions on the port side? A. No.

Q. What did you go back to midships for after you had been up to this man?

A. We went to the life boats.

Q. But I am talking about when you walked back over the deck cargo; did you follow along the port rail?

A. No, I could not, because there was rigging in the way.

Q. The line that run along the port stanchions,—didn't you walk along on the port side?

A. No, to the riggings, and then went between the midship and port side, and then went up to the bridge.

Q. Who was this man who was hurt?

A. William Urban.

Q. Has he been around here as a witness?

A. No, he is in the hospital.

Q. What made you put your head over outside the stanchions?

A. Nothing; just because I went to put one arm on his shoulder and another under the rail, and then asked him what was the matter, and I looked down.

Q. That would not put your head outside the stanchions? A. Yes, sir.

Q. Was he hanging over on the outside of the rail?

A. Yes.

Q. He was standing over outside the rail?

A. He was like this (indicating); the stanchion like this.

Q. Wasn't there a rope strung along there?

A. No, it was a wooden rail.

Q. You mean there was a wooden rail nailed to the stanchions? A. Yes, sir.

Q. Was there a rope strung along there, as the other witnesses say?

A. It was only in the fore part, from the first stanchion.

Q. And the rail was back further towards the bridge? A. Yes.

Q. Was this nailed to the stanchions back nearest the bridge? A. I don't understand.

MR. HAYDEN: Q. He is asking what was between the stanchions and on the port side next forward of the house, to hold on to?

A. There was a rope from the back stay to the stanchions, because a wooden rail could not be around the back stay.

Q. Where does that come down near that cabin?

A. From the rigging.

Q. Was there a rope from the rail on the cabin up to the first stanchion? A. Yes, sir.

Q. Do you know how far that rope went forward?

A. Only from the first stanchion.

(Witness excused.)

MR. ANDREW BROWN, a witness called and sworn on behalf of the libelant, testified as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. How long have you been on the Strathalbyn?

A. Since I joined, nearly seven months.

Q. What is your name? A. Andrew Brown.

Q. How old are you? A. Thirty-six.

Q. How long have you been going to sea?

A. Fifteen years.

Q. You were off watch on the night of the collision? A. I was in the forecastle.

Q. Down in the cabin with Semruk?

A. I was playing cards at the time with Deyslan.

Q. You were hurt in the collision were you?

A. I got squeezed around the back.

MR. HAYDEN: You may cross examine on any line you see fit, with the statement that he will corroborate the testimony of Mr. Semruk and the sailors as to the light.

MR. HUGHES: I don't care to cross examine the witness, and of course not the testimony of counsel.

(BY MR. HAYDEN.)

Q. After the collision did you come out?

A. I was the last out.

Q. Did you see any lights on the Strathalbyn?

A. I did.

Q. What lights? A. The masthead first.

Q. What other light? A. The port light.

Q. Were you ever where you could see the star-board light? A. No, sir.

Q. How did the lights appear to be burning?

A. In the usual way, bright and clear.

CROSS EXAMINATION.

(BY MR. HUGHES.)

Q. You climbed up on the cargo? A. Yes.

Q. And then you had to creep up to the port side, because it was listed?

A. I didn't go up on that account. I came up the lumber and went along until I saw one of my winch mates hurt, lying over the rail.

Q. That is not the reason you walked over to the port side? A. No.

Q. You went because one of the men were hurt?

A. Yes.

Q. Did you know beforehand that he was hurt?

A. No.

Q. You stopped and talked to him?

A. Yes; I heard him moaning.

Q. Did you help him back?

A. No. He did not want any help. He said he would stop there for a bit.

Q. So you went off?

A. I got orders to clear away the boats, and then I had to help.

Q. And you went back? A. I went along aft.

(Witness excused.)

WHEREUPON the hearing was adjourned sine die.
(Filed Dec. 10, 1912.)

Deposition of CHARLES P. M. JACK, taken on behalf of libelant, pursuant to stipulation herein, before Edward H. Carpenter, Notary Public, in the City of New York, on January 14-15, 1913.

NEW YORK, January 14, 1913.

2 o'clock P. M.

Appearances :

MESSRS. HUFFER, HAYDEN & HAMILTON, (by MR. WILLIAM H. HAYDEN) for libelant.

MESSRS. BOGLE, GRAVES, MERRITT & BOGLE (by MR. WILLIAM HENRY BOGLE) for respondent, claimant and cross-libelant.

It is hereby stipulated and agreed, by and between the parties hereto through their respective proctors, that the deposition of Charles P. M. Jack may be taken in behalf of the libelant herein before Edward H. Carpenter, a Notary Public, No. 27 William Street, in the City of New York, at the hour of 2 o'clock P. M., on the 14th day of January, 1913, and may be transcribed and read in evidence for all purposes, subject only to the objections made and entered at the time of taking the testimony.

It is also expressly stipulated and agreed that the testimony now taken may be transcribed by the said Edward H. Carpenter in typewriting, and that the signature of the witness is hereby waived.

CHARLES P. M. JACK, called on behalf of libelant, being duly sworn, testifies as follows:

DIRECT EXAMINATION by Mr. Hayden:

Q. Your full name, please. A. Charles P. M. Jack.

Q. Your age. A. Thirty-three.

Q. Your residence? A. St. George Hotel, Brooklyn, New York.

Q. Your business? A. Consulting engineer and ship surveyor.

Q. Have you ever been to sea? A. Yes.

Q. Please briefly outline what you have been doing in connection with sea-faring life and ships? A. About 17 years ago I started to serve an apprenticeship as a marine engineer; I served 5 years as such, and then went to sea as a sea-going engineer till such time as I obtained a chief engineer's certificate, and sailed for one voyage as chief engineer; after which I came ashore and went to Glasgow University and studied naval architecture. After that I worked in several shops in Glasgow as draftsman and designer, and then acted as assistant superintendent to Messrs. Thomas Dunlop & Sons for a short time, after which I came to New York and started

in business as a consulting engineer and ship surveyor. That is, I came to New York 8 years ago. During this 8 years I have been employed by a number of ship owners to act as surveyor and looking after damage and repairs.

Q. When did you say you came to New York? A. 8 years ago.

Q. Are you connected with any firm? A. Not directly.

Q. State the extent of your experience as a marine surveyor; that is, whether you have little to do or considerable to do. A. I have handled a great many cases; in fact, my time has been fully occupied for almost the entire 8 years, principally with damage work; in other words, vessels sustaining damage either by stranding, fire, or collision, or something of that nature.

Q. What is the nature of your work in connection with those damages? A. Holding survey, deciding what is necessary to repair the damage and seeing such repairs carried out satisfactorily.

Q. Did you have anything to do in connection with the repairs to the steamer Strathalbyn? A. I did.

Q. In January, 1912, and subsequent thereto. A. I did.

Q. Just state how that matter came up and what you did in connection with it? A. I was in Newport News, looking after some repairs to a steamer, and received a cable from Messrs. Bell & Sons instructing me to proceed to Tacoma.

Q. Washington? A. Washington—to look after repairs to their steamship Strathalbyn made necessary on account of a collision which the vessel had been in.

Q. And what did you do? A. As soon as possible I got back to New York and started for Tacoma, arriving there on Monday morning. I then got in touch with Messrs.—

Q. Do you remember what date that was? A. I think it was the 22nd of January.

Q. Then what did you do? A. On arrival at Tacoma I got in touch with the agents, Messrs. Dodwell & Co., and the captain of the Strathalbyn, and learned from them some particulars of what had occurred—of the accident that had occurred. The same forenoon I

proceeded on board the steamer Strathalbyn and had a general look around at the damage.

Q. When you had a general look around what was the condition of the ship and her cargo? A. The deck cargo had been discharged from the forward deck, and a part of the cargo had been discharged from No. 1 hold. To the best of my recollection, the entire cargo, or most of the cargo, had been discharged from No. 1 'tween decks. As a result of cargo having been removed from the forward end of the ship, the worst of the damage was then out of water and the vessel was practically making no water. After consultation with Captain Logan, representing the London Salvage Association, and after also consulting with the captain, it was decided that, the damage being so far out of water, another day's work or so on the forward end of the vessel would bring the damage far enough out of water to make it safe for the vessel to proceed to Victoria.

Q. Where was the vessel lying when you first saw her? A. She was lying at Milwaukee Dock.

Q. Tacoma? A. Tacoma.

Q. Did you talk with anyone else about the damage prior to her going to Victoria in the matter of repairing her? A. Oh, I expect I did. I don't really recall.

Q. Did you take the matter up with Dodwell & Co.? A. I think that probably in person—

Q. Did you take it up with Dodwell & Co.? A. Yes.

Q. Go ahead. You left off where you said that you had decided that by another day's work or so you could raise the damaged part to such an extent that it would be safe to go to Victoria. Now go ahead from that point. A. Captain Logan agreed to furnish a sea-worthy certificate, and further agreeing to proceed in the vessel himself on the voyage from Tacoma to Victoria, it was decided to clear the vessel and shift to Victoria. Meantime I communicated with the British Columbia Marine Railway Company and ascertained from them that they had all material necessary for effecting the repairs and a suitable wharf at which the discharging of the cargo and the repairs could proceed at one and the same time.

Q. Did you make any inquiries as to the accommodations on Puget Sound for the repairing of the vessel before you decided that she should go to Victoria? A. Yes. I talked it over with Captain Logan and any other people that I met and formed the opinion that Victoria seemed to be the most likely place to get the work expeditiously executed and at a reasonable figure.

Q. Why did Victoria seem to be the most likely place to get the work expeditiously executed? A. First of all, because there was a drydock handy to the repairers' yard; and, second, because the said drydock could take the vessel with a large proportion of her cargo on board; third, because there was a position at that yard by which the stem of the vessel could be placed right under the sheer legs and the remainder of the vessel be so moored that cargo barges could be brought along either side, so that the work of cutting adrift the wreckage and the discharging of the cargo could be going on at once.

Q. Do you remember when the vessel reached Victoria? A. It was towards the end of the week; I think it was Thursday of the week that started on January 22nd, Monday, January 22nd. Thursday or Friday, I am not sure which.

Q. What did you do with the vessel when she got to Victoria? A. She went immediately to Esquimalt, to the repairers' yard, and was set in position as I have already described, that is, with her stem under the sheer legs and her stern projecting out into the bay.

Q. State whether or not the repairing in that position and the unloading were conducted simultaneously. A. They were. When the last stick of lumber was out of her, that is, what were required to take out of her to bring her on an even enough keel to drydock, the upper work, or the wreckage above water, was then so far cut away that to get any more away required drydock, so that the two were practically finished at the same time. In other words, when the vessel was in trim for drydocking the wreckage above water was all cut away.

Q. Now just tell in your own way how you proceeded, step by step, until the vessel was finally taken

out of the dock and to be loaded again. A. That is, you mean from the time that she entered the drydock?

Q. Yes. A. When the vessel entered the drydock the dock was pumped and we found that the damage below water other than the broken frames was not very serious, with the exception of the lower end of the stem, which was badly bent at the upper end. When the vessel was dry in dock the workmen started to cut away the lower ends of the frames the upper ends of which were damaged, and to move these; also started to rig wooden frames, battens and wooden stem, in order to arrive at the correct shape of the forward part of the vessel, which had been practically destroyed. After these ribbands and battens were erected in position, the templets were lifted off the frames and the work of bending the new frames started. As soon as the new frames and reverse frames were shaped they were set in position and connected up to the battens. The new stem, as soon as it was ready, was set in position, and the work of relaying the decks and stringer plates and beams and shell plating proceeded. The work as far as possible below what was her draft when she came into drydock was pushed ahead as quickly as possible; and as soon as this lower work was completed the vessel was undocked and taken back to the position that she was in when first taken to Esquimalt. The cargo was then immediately brought alongside, and the loading proceeded at the after end of the vessel. As soon as the work which came into No. 1 hold was far enough advanced, the loading of the lumber in this hold was also started, and by the time all the lumber was loaded the repairs were so far advanced that the vessel could leave Esquimalt and proceed back to Tacoma. On arrival at Tacoma the lumber which had there been discharged was again re-loaded, and the few repairs still remaining to be effected were completed.

Q. State whether or not the repairs at Esquimalt were being made simultaneously with the loading of the cargo after the vessel was taken out of drydock?

A. Yes. The loading could commence immediately, because a considerable cargo had to be removed from the after end of the vessel in order to bring the stern or

bring the after end up, so that the vessel might be on a reasonably even keel when taken on blocks in drydock.

Q. Do you remember when she finished her repairs at Esquimalt? A. I think it was about the 10th of March; I wouldn't be sure of that date.

Q. Did you make a written survey of the damage? A. I did.

Q. (Paper shown witness.) Please state what that is. A. This is the survey report that I prepared, dated March 8th.

Q. Is that the survey report you just referred to as having made? A. Yes.

Q. Does that correctly state the damage to the hull of the vessel? A. Yes.

It is stipulated between counsel, for the purpose of avoiding incumbering the record, that the survey report made by Mr. Jack, and now identified as Libelant's Identification X2, may be subsequently introduced in evidence by either party, subject only to such objections as are made at this time.

Survey Report marked Libelant's Identification X², Jan. 14, 1913.

Q. Does this survey report, Identification X² state damage to any other part than the hull of the vessel? A. Yes; it has some machinery.

Q. State whether or not the damage that is shown by that survey report was actual damage done by this collision? A. It was actual damage either done by the collision or resulting from the collision. Machinery damage: that was in connection with pumping out the water which came into the hold after the collision; and the boilers, they were salted up, due to keeping steam after the collision and while shifting the vessel from one port to another. The condenser was opened up for examination, on account of the vessel having been on the mud and mud having thus got into the condenser. I think that is all.

Q. Were the damages shown in your report of survey just referred to repaired? A. Yes.

Q. Under whose supervision. A. Mine.

Q. Did you check over and keep track of the cost

of making those repairs? A. There were timekeepers employed to check over daily all the labor and material.

Q. What did you have to do in connection with the checking over of those repairs, if anything? A. After the repairs were pretty well ahead the timekeepers' statements and the repairers' statements and bills were carefully checked over and discussed, and where necessary corrected, by Captain Logan, representing the underwriters of the Strathalbyn, and Mr. Gardner, representing the underwriters of the Virginian, and myself.

Q. What was the result of that combined checking? A. That the bills were eventually corrected and approved as such by all three.

The parties hereto stipulate, with reference to the bills and vouchers for repairs, that they may be similarly introduced in evidence as the report of survey of Mr. Jack marked Identification X², the same being marked Libelant's Identification X³ (consisting of pages 1 to 7 inclusive), X⁴, X⁵, X⁶, X⁷, X⁸, X⁹, X¹⁰, and X¹¹.

Q. Have you looked at those vouchers, Libelant's Identification X² to X¹¹, inclusive? A. Yes.

Q. Are those the vouchers that you and Mr. Gardner and Mr. Logan checked over? A. Yes.

Q. And approved? A. Yes.

Q. I notice that Mr. Gardner approves the same subject to adjustment, surveyor for underwriters. Do you know what that means? A. That is the customary way for an underwriters' surveyor to approve a bill.

Q. What does that mean, if anything? A. It means that is subject to the adjuster's finding; that the bill is a matter for the underwriters.

Q. Does it have anything to do with the correctness of the amount of the bill? A. No.

Q. Mr. Jack, state generally whether or not the items contained in Libelant's Identification X³ to X¹¹, inclusive, were incurred in connection with repairing the damage to the Strathalbyn or repairing the results of the damage to the Strathalbyn by reason of the collision with the Virginian January 12th, 1912? A. All the work or supplies, or anything that is billed for any

of these bills that have been approved by me, was made necessary by the collision.

A paper is produced and marked Libelant's Identification X¹², Jan. 14, 1913.

Q. (Said paper shown witness.) Referring to Libelant's Identification X¹², being a bill rendered by yourself, dated March 10, 1912, for \$2,650, will you look at that, please, and state what it is for. A. For my services and expenses in connection with the repairs to damage made necessary by reason of the collision with the S/S Virginian.

Q. What have you got to say about that being the usual charge or otherwise? A. It is my customary charge.

Q. Have you been paid that amount? A. Yes.

Mr. Jack's bill lib. ident.x12, is offered in evidence and marked Libelant's Exhibit x12, Jan. 14, 1913.

BY MR. BOGLE:

Q. Mr. Jack, your bill for services was on the basis of \$25 a day from the time you left New York until you returned to New York, was it? A. That is right.

Q. How long were you in Victoria? A. I think from about the 25th of January until about the 10th or 11th of March.

Q. I notice that this voucher contains an item of \$550 for hotel expenses at Victoria etc. What is included in that besides the hotel bill proper? A. Well, such expenses as every-day expenses traveling from Victoria to Esquimalt, typewriting—no, I don't think there is any typewriting in that, but just ordinary expenses.

Q. I note that you have one item, "One trip to Tacoma and return to Victoria, \$25." What was that for? A. I went across to see Dodwell & Co. about something connected with the ship, but I don't just recall what it was.

Q. That does not represent traveling expense from Victoria to Tacoma and return, does it? A. Yes, and hotel—the expense of the entire trip.

Q. I notice you have an item of estimated expenses

to Tacoma, at Tacoma and return to New York, \$250.
A. Yes.

Q. Have you any itemized account that separates that and shows what it was for? A. No. The reason for doing that was this: that it was necessary to leave all the bills behind, and, as I could not then accurately tell what the total expense would be, I estimated it, and I might say that from my recollection the estimate was low.

BY MR. HAYDEN:

Q. Mr. Jack, were you present in Victoria any time when several gentlemen made measurements of the Strathalbyn? A. I was.

Q. Will you state who were present when those measurements were made? A. Captain Logan, Mr. Walker, Mr. Bogle, Mr. Hayden, Captain Crerar, and Mr. Purdie.

Q. Do you remember about what date that was? A. February 19th, I think.

Q. Do you remember what time we went down to the ship? A. During the forenoon. I think probably about—we left Victoria, I think, around 10 o'clock.

Q. What measurements were taken? A. Measurements were taken of the forward deck, that is, between the inside of the rail, the top of the bulwarks on either side, the length of the forward deck, the length of the forecastle, the heights of the different bridges, and the length of the light screens, the distance from the forward end of the light screen to the forward end of the bridge. In referring to light screens I refer to the light screens on the lower navigation bridge. Also measurements were taken of the depth of the block at the forward end of the light screens, and the distance between the iron lamp hangers, that is, the distance between the iron lamp hanger for the starboard light and the hanger for the port light. I think these were all the measurements that were taken.

Q. Did you make any memorandum of those measurements at that time? A. I did.

Q. Have you got that memorandum here. A. Yes.

Q. Will you please produce it?

Witness produces a paper—an envelope.

It is marked Libellant's Ident. X 13, Jan. 14, 1913.

Q. Will you tell the Court what distances you got between these different points that you have indicated—measurements that you have indicated? A. (Witness looking at envelope.) The distance between the inside of the bulwark rails: 6 feet forward of the forward break of the bridge—48 feet 7½ inches;

18 feet forward: 48 feet 6 inches;

The next measurement I can't make out, but I take it to be 12 feet further forward; that would be about 30 feet from the end of the bridge: 48 feet 2 inches;

The next, 45 feet from the end of the bridge: 47 feet 9 inches;

60 feet from the bridge: 47 feet;

72 feet from the end of the bridge: 46 feet 4 inches;

84 feet from the end of the bridge: 44 feet 9 inches;

96 feet from the end of the bridge: 42 feet 11 inches.

That was about 6 feet from the break of the forecastle—where the last breadth measurement was taken.

The next measurement I have is the height of the forecastle deck: 8 feet;

The next is the total length of the forward well deck: 101 feet 9 inches;

The next is the length of the forecastle from inside of stem: 39 feet;

The next is the beam at the after end of the fore-castle on the forecastle deck: 46 feet 2 inches;

The next thing I have is the distance between the iron lamp hangers of side lights: 46 feet 10 inches.

Then the length of side-light brackets: 3 feet 8½ inches.

Q. What do you mean by that? A. I mean the length of the side-light box.

The distance from the forward end of side-light box to the forward end of bridge: 11 inches. This measurement was taken to the bridge work immediately forward of the lamp screen, and not to the decking.

The distance from the forward break of the bridge to the after end of the mooring bitts: 8 feet 3 inches.

Then I have the height from the main deck to the upper bridge: 25 feet;

To the lower bridge: 15 feet 5;

And I have another measurement of 14 feet here, and I am not clear what it is, but it is apparently a measurement on the forward end of the bridge.

Then there is a height here; it says, "height of center light," 17 feet 1. I don't recall what that measurement was taken for, or really what the measurement is.

Q. Have you got a measurement there for the distance between the iron bracket and the light screen at the forward end of the bridge? A. Yes, I have. I missed that. 4 feet 2 inches.

Q. Referring now to the measurement of 46 feet 10 inches between the iron bracket from the port to the starboard light screens, please tell if there was any conversation about that, and, if so, what it was—how those measurements were taken. A. It was desired to find the distance between the port and starboard light, that is, the distance they were apart. The lamps were not on board, and it was stated that the lamps were in Tacoma. After discussion it was decided that the lamps could be measured, and, to get the actual distance between the lights, the best way to do would be to take a measurement from some point to which the lamps were directly attached; and the iron brackets carrying the lamps being the only such point, the measurements were taken between these iron brackets, there being a convenient hole in the bridge siding to enable the tape to be stretched directly from the one bracket to the other.

Q. Describe to what the light screens were fastened. A. The light screens were fastened to the sides of the bridge; that is, the staving that goes around the bridge between the decking and the rail.

Q. Describe that a little bit more in detail. I don't think the record will show clearly what you mean by it. A. The bridge was enclosed by a teak-wood rail, which extended around it about 3 feet from the deck, and the space between that rail and the deck was filled in with upright wood boarding suitably attached to the deck and with wood stanchions.

Q. It made a sort of board fence around the deck? A. Yes.

Q. Now, when you refer to the light screens being attached, to what do you mean they were attached?

A. To this board screen, as we call it.

Q. A wooden fence that went around. A. A wooden fence.

Q. Where was that hole located with respect to the iron light brackets in the light-screen boxes. A. It was placed immediately in line with it; that is, the position would come about in line with the screw on the lamp for fastening the lamp to the bracket. The hole was there for the purpose of setting up on to that screw after the lamp was in position.

Q. Do you know how far from the outer edge along the inboard side of the light screen the iron bracket set out? A. What do you mean by the inboard side of the light screen?

Q. I mean the side of the light screen that was fastened to the railing—the light screen board. How far the bracket set out from the light screen board. A. That is, the thickness of the board?

Q. No, I do not mean the thickness of the board; I mean the distance that the bracket would be from the inboard—inside—board of the light screen. A. I understand that you mean the distance that the iron bracket projected out past the inside of the light screen board; and I gauge that at about—oh, about an inch and a half.

Q. How thick was that iron bracket? A. I should judge about a quarter of an inch.

Q. How wide was it? A. About 2 inches, I think.

Q. I don't think you gave the distance, or, rather, the width of the block in the forward end of the screen. Do you know it? A. My notes don't show it, but I know that it is four and a half inches.

Q. Are those notes of yours in the same condition that they were in at the time you made them at Victoria? A. They are, other than they are a good deal worse for wear; they have been carried in my pocket, and some of the things are not very clear.

Q. Has anything been changed about them in any way? A. Not to my knowledge, no.

Q. Are the measurements on there the same as they

were when you took them in Victoria? A. The same as they were when I took them in Victoria.

MR. HAYDEN: I offer in evidence the notes made by Mr. Jack, marked Libellant's X¹³.

The envelope is marked Libellant's Exhibit X¹³, Jan. 14, 1913.

Q. Did you notice anybody else making notes at the time this measurement was being made. A. Yes. Mr. Walker made notes, and Mr. Hayden made some notes; and I don't know whether Captain Logan made any notes or not—I know that he did not make them on the lower deck, I don't know whether he did on the bridge or not.

Q. After these measurements were made did you and Mr. Walker make any comparison of your notes? A. Yes.

Q. Just what took place between you? A. We read over the figures that we had each taken and compared them and agreed upon them.

Q. Did you make any measurement of 47 feet 7 inches? A. No. I don't think so.

Q. Did you hear any discussion of 47 feet 7 inches by Mr. Walker or anybody else? A. You mean on the bridge? On the bridge measurement?

Q. Yes. A. I remember some figuring being done to try and find out about approximately what the position of the lights would be, and I recall the measurement of 4½ inches, that is, the depth of the blocks being added to the measurement that was taken across the light screens, and these two measurements, that is, the two 4½ inches, one on each side, added to the 46 feet 10, would give 47 feet 7. I remember at the time thinking that that would not give it, because the iron brackets extended out a bit past the inside of the screen. That is, that a line stretched from the end of the wood blocks at the forward end of the light screen would not be 4½ inches away from the iron lamp hangers. I therefore did not pay much attention to any estimating of the actual position of the light, but preferred to leave this until the lamps were produced, so that the actual distance between the iron brackets and the lamp wicks could be taken.

Q. Would the distance between the outside edges of the blocks of the forward end of the screens, that is, the starboard screen and the port screen, be more or less than 46 feet 10? A. It would be more than 46 feet 10.

Q. Was there any measurement made by Mr. Walker and yourself of the distance between the outside edge of the backboard of the light screens? A. You mean between the port and the starboard?

Q. Yes. A. No. We could not take that measurement.

Q. Why not? A. Because there was no hole on the bridge siding to allow the tape to pass through in way of that.

Q. Was there any hole to allow a tape being passed through on the forward side of the light screen? A. No. The only way in which that could have been taken accurately would have been to have cut a hole through the siding of the bridge, or it might have been taken approximately by putting a wood batten on and extending that line up to above the line of the rails so that a tape could have been stretched between these projections.

Q. Was that done? A. No.

Q. What arrangements were made, if any, relative to preparing a blue print or drawing showing these measurements that you know about personally? A. The chief draftsman of the repairers, that is, the B. C. Marine Co., prepared such a drawing—such a tracing and blue print; partly from figures obtained by himself, or, rather, the drawing was prepared by figures obtained by himself, and a number of the figures which had been obtained by the different surveyors and others were filled in.

Q. What arrangement was made between Mr. Logan, yourself and Mr. Walker, or between yourself and Mr. Logan, about the signing and furnishing of copies of a blue print of these measurements? A. I do not recall any special arrangement being made.

Q. Do you recall any arrangement being made whereby you promised to give to Mr. Walker a copy of the blue print? A. No, I don't.

Q. (Blue print shown witness.) I hand you Claimant's Identification 5-5, and ask you if you have ever seen that before. A. Yes. This is the blue print that was made from the tracing prepared by the draftsman of the B. C. Marine.

Q. Did you see the tracing before the blue print was made from it? A. I am not sure. I think probably I did.

Q. Did you put any marks or figures on that blue print? A. Yes. I put in some of the dimensions that had been taken at the survey in pencil, and asked the draftsman to have these inked in.

Q. I wish you would go ahead, right in your own way, and explain everything in detail in connection with the preparation of that blue print. A. In the first place, I asked the draftsman to prepare an outline showing the general layout of the vessel from the bridge forward; showing the sheer, the height of the rail, the height of the forecastle, the after end, and to put it all down to scale; and to prepare this from his own dimensions, that is, from dimensions obtained by himself; and that after he had this prepared to make a blue print of it, leaving out such dimensions as had been obtained by the surveyors and others; and that after he had this I would give him these dimensions to fill in. I stated that as we wished one actual record of these figures, I thought a blue print more reliable than a tracing. When he had this blue print ready I went over it and penciled in such dimensions as I had in my notes, and I think also showed him my notes to take them from, or, at least, read over my notes to him. The dimensions were then inked in by him; and a day or so afterwards I received the blue print, and checked the dimensions over, or, rather, the figures over, with Captain Logan; finding same in accordance with the notes, that is, apparently in accordance with the notes—although I know since that they were not—I signed it, and Captain Logan signed it. I then left it with Captain Logan, as he was going to see Mr. Walker, and asked him to submit it to Mr. Walker for his signature.

Q. You say you made some pencil measurements on the blue print. Are there any of those readable now?

A. Yes, there are some of them.

Q. When did you put those measurements on there? A. I put them on in Esquimaux, in the B. C. Marine Company's drawing office.

Q. Will you please read such of those notations as are discernible? A. Here is one (indicating), 4 feet 2, which is a dimension from the forward end of the bridge to the center of the iron lamp-holder—"Cr. of iron lamp holder" is written on in my handwriting. Then here is "46 feet 10 from"—the next word I can't make out—"of iron lamp holder." That is written across the front of the lower navigation bridge.

Q. Did you examine that blue print? A. Yes.

Q. What have you got to say about its being accurate or inaccurate? A. Well, there is one error in it. That is, the 46 feet 10 has not been shown as it ought to have been, but has been shown as being between blocks and the forward end of the screen. That is, in place of the 46-foot 10 having been put in in accordance with the pencil note, it has been put in in a blank space which has been left for a dimension between the blocks and the forward end of the screens.

Q. How does the error show? A. How do you mean?

Q. How do you know that there is an error there? A. I know it from my notes.

Q. I mean from the appearance of that blue print? A. In the first place, the lines at the side, that is, the dimension lines—are apparently an extension of the wood blocks at the forward end of the light screen.

Q. What part of the wood blocks? A. The out-board edges. Whereas this line should have been an extension of the iron brackets which are for carrying the lamps.

Q. How did it happen that you certified to those measurements being correct? What system of checking? Just explain in detail how you checked the figures that were written there. A. Well, to the best of my recollection, the way they were checked was: Captain Logan and myself examined the drawing, and I called out what I had on my notes, and we checked up the actual figures from that. Of course, I had previously given

the draftsman the figures that I had on my notes, and these figures were inked in by him.

Q. Did you ever agree with Mr. Walker that the distance 46 feet 10 inches was the correct distance between the outside edge of the forward block in the port and the starboard light screen? A. I could not do that, because it was not.

Q. (Tracing shown witness.) I don't know whether you know anything about this tracing personally. Did you ever see that before at Esquimalt? A. Yes.

Q. Let us identify it, then. A. That is the tracing from which that blue print was taken—printed—I imagine.

Tracing marked Libellant's Identification X¹⁴, Jan. 14, 1913.

Q. This is the tracing that was prepared by the draftsman. A. Yes.

Q. Independently of the figures which you had given him? A. Yes.

Q. In referring to this tracing I am now referring to Libellant's Identification X¹⁴. Did you put any measurements or marks on that tracing? A. No, I don't think so.

Q. I wish you would be positive about it one way or the other. A. No, I did not.

Q. Were you present when Mr. Walker signed the blue print? A. I was not.

Q. I see here in the testimony that was taken in Seattle when Mr. Walker was testifying that, reading across the top of the blue print, it was read "46 feet 10 from between iron lamp holders." Will you look at that and see if you can make out that word now? A. No, I can't read that.

Q. Is it the word "between"? A. No; "from" something "of iron lamp holders." I should imagine it was neither "inside" or "outside" of iron lamp holders. I can't make it out.

Q. In making these measurements to ascertain the width between the lamps, do you remember who held the tape? A. I think Captain Logan and Mr. Purdie had the

tape most of the time. I believe the captain had the end of the tape some of the time too.

Q. Which end of the tape were you at? A. The measuring end.

Q. Do you remember whether or not the light screens were above the deck, that is, the chart-room deck? A. Yes. They were, I should imagine, about half the height of the bridge bulwark, you might call it.

Q. Did you ever decide with Mr. Logan and Mr. Walker that the blocks in the forward end of the light screens were the center of the lights? A. No. I remember some discussion about that. But, as it was not very easy to get that dimension, and as it was considered—Mr. Hayden, I think it was, suggested that the best way was to take it from the light brackets, and not bother with the screen at all—or the blocks, rather. I know it would have been rather difficult to get the distance between the port and starboard light screen block. We would have to rig up for it, and then we could not have been altogether sure of the projections, that is, the extension that we would have to make, being in like position.

Q. Do you remember whether the lights on the flying bridge were perpendicularly above the lights on the chartroom bridge or not? A. I could not say definitely, but to the best of my recollection they were. I should expect them to be.

Q. Mr. Jack, did you ever take any notes that were prepared by the draftsman of the B. C. Railway Company, who, I understand, made this drawing, back East with you—any notes and measurements of these lights or distances across the ship? A. I think I had some notes of his in connection with—not in connection with lights; in connection with drawings he prepared for me of the repairs as effected.

Q. But I mean in connection with these lights and measurements across the deck, &c. Did you ever take any of those measurements away with you? A. No.

Q. Did you ever take that tracing of the blue print back East with you? A. No.

Q. When I refer to that tracing I mean Libellant's Identification Exhibit X14 and Claimant's Identification

5-5, being the blue print with the measurements on it and the drawing? You never took those back East with you? A. No.

Q. Did you and Mr. Walker have any discussion as to the molded depth of the vessel? A. Not to my recollection.

Q. Do you know what the molded depth of this vessel is? A. The molded depth?

Q. The molded breadth. A. Yes.

Q. Did you have any discussion with him as to the molded breadth? A. Yes.

Q. Do you know what the molded breadth is? A. 52 feet 2 inches.

Q. Right forward of the break of the house on the ship, where the rail connects with the break of the house, what is the shape of the top of the rail as you look at it? A. You mean the bulwark rail?

Q. Yes. A. It looks just the same as that bulwark rail is formed of a bar—of a bulb bar—which runs right along.

Q. How does it curve? A. And the bulb looks inward. You mean right—

Q. The break of the house? A. The connection to the house?

Q. Yes. A. Connected with the bracket.

Q. What is the shape of that bracket? A. It is a gusset bracket, triangular bracket, rounded off.

Q. With the rail and the bracket at the house, what would you say would be the width? A. It would be very hard to guess that. It would depend on what position on a strake you take it.

Q. I say right at the house. A. The bracket would probably be 12 to 14 inches deeper than from inside of the rail; that is, from the rail—the inside of the rail—to the inside toe of the bracket would probably be from 12 to 14 inches, probably more; possibly 18 inches.

Q. How far does that bracket extend forward on the rail? A. Perhaps 2 or 3 feet.

Q. Does it gradually come down from the 18 inches to the width of the rail? A. To the width of the rail.

Q. Have you got the drawings here that were prepared and that you carried away with you—prepared by

the draftsman for the repairs—and that you carried away with you? A. Yes.

Q. Will you let me see them, please?

Witness produces drawings.

Drawings marked Libellant's Identification X¹⁵, Jan. 14, 1913.

Q. Now referring to this drawing marked Libellant's Identification X¹⁵, just identify each figure that is on it, so that we can all understand it hereafter. A. This on the left-hand top corner here, "expansion of shell plating"—this shows the port and starboard side shell plating expanded, that is, straightened out as it would be if it were not curved. The new plates are shown hacked, the port side being doubly hacked.

Q. You mean? A. I mean by hacked lined in—sectioned.

Q. What are these double-curve lines? A. These show the bottom of the plates, or, rather, the lap of the plates.

Q. The length of the plate is the distance between each one of these double-curve lines? A. Yes. In other words, the double-curve line shows the end of a plate.

The figure which the witness has been just referring to is marked "A".

Q. Now tell us what the figure is just below the "A"—what that represents. A. This represents the fore-castle deck, or, in other words, a plan view of the fore-castle upper deck.

Q. Tell what those different marks are that are on there. A. This figure shows the stringer plates and the center plates, which were part of the construction of this deck, the remainder of the deck being wood. The wood was also extended over a part of the steel plates shown. These steel plates are marked in a similar manner to the figure above, showing which plates were renewed.

(Marked "B".)

Q. Now please tell us what the figure is in the right-hand upper corner. A. That is a plan view of the upper deck. That is, the first deck below the fore-castle deck.

Q. Describe it, please. A. This shows the plates

that were renewed. It also shows the new brackets, the new beams and new stringer clips.

The figure the witness has just been referring to is the figure "C".

Q. Describe the figure just below that. A. The figure immediately below that is a plan of the main deck, that is, right below the forecastle deck, and the second deck down from the forecastle deck, and shows the plates renewed, brackets renewed, beams renewed, shell clips and angles renewed.

(Marked with the figure "D".)

Q. Now refer to the one next lower down, the larger one. A. That is the upper stringer.

(Marked by the notary "E".)

Q. State what that represents. A. That is a plan view of the upper stringer, which is the first stringer below the main deck in way of the fore peak. This view only extends back as far as the collision bulkhead, which is represented by the line at the furthest end from the stem; it also shows the stringer plates renewed and the beams renewed.

Q. Now, the little figure furthest to the right. We might as well mark that at this time "F."

Same marked by the notary "F".

Q. Describe what that is. A. That is a plan view of the lower side stringer in the fore peak, which is the second stringer below the main deck, and shows new plates, new beam and bracket and new clips.

Q. The printing that is on there is descriptive of the different parts that have been replaced. For instance, where it says "new plates", have there been old plates taken out and new plates put in? A. Yes.

Q. Is all that is blocked in there new—been renewed? A. It is.

Q. On all of the figures? A. On all of them.

Q. Mr. Jack, did you ever consider, looking at the damage, what angle these vessels may have come together? A. Yes, I have.

MR. HAYDEN: Libelant offers in evidence Libelant's Identification X¹⁵.

Marked Libelant's Exhibit X¹⁵, Jan. 14, 1913.

Q. Now, Mr. Jack, will you, in your own way, tell

what you think was the angle that the vessels came together, and your reasons for so thinking? A. You want me to explain just how I think it came? A. Not only the angle, but the way they struck?

Q. Yes; everything in connection with the way they struck. A. My opinion is that the Virginian struck the Strathalbyn on the port side just about the root of the stem.

Q. Mr. Jack, I hand you some photographs here (photographs shown witness). If you desire to refer to them to make your evidence more clear, you can do so; and go ahead in your own way. A. That is, that the upper part of the stem of the Virginian struck the part of the stem of the Strathalbyn above the 29-foot mark, and went right through, carrying with it the stem of the Strathalbyn down to the 29-foot mark, and cutting through the decks and beams as well as the frames down to about the 29-foot mark.

Q. In connection with your testimony, Mr. Jack, we are assuming that the Strathalbyn had a list to starboard of about 6 degrees, and the Virginian was upright. A. From the look of the damage, it would appear that the stem of the Virginian carried right through in line with the forecastle deck of the Strathalbyn to the 5th beam from forward; these beams being spaced about 4 feet apart, with the exception of the first beam, which is 2 feet from the stem. At this 5th beam from forward the direction of the stem seems to have cleared the beams of the Strathalbyn, and the damage abaft that seems to have been caused by the tearing due to the wreckage of the Strathalbyn caught on the stem of the Virginian. I therefore gauge that the direction in which the stem and the whole Virginian was traveling was from slightly abaft the Strathalbyn's stem on the port side to the end of the 5th beam from forward, that is, the starboard end of this beam. This direction is about $3\frac{1}{2}$ points out of the center, or away from the direction of the keel of the Strathalbyn. That is to say, that the Virginian cut in two the Strathalbyn from a position about $3\frac{1}{2}$ points on her port bow, and that the actual position which the center line of the two vessels had to each other at the time of the collision and while they were together

was about $3\frac{1}{2}$ points; the plating on the port bow of the Strathalbyn being set in by the fullness of the bow of the Virginian. As she proceeded the Virginian would seem to have made a direct course from the time of cutting into the bow of the Strathalbyn on the port side until she left it on the starboard side. The appearance of the lower part of the stem, that is, below the 29-foot mark, would seem to indicate that the stem of the Virginian did not touch the stem of the Strathalbyn, and that the lower part of the stem of the Strathalbyn was not touching until after the stem of the Virginian had passed that point, and the fullness of the bow of the Virginian set the plating over to port as well as the stem, that is, the stem just below the 29-foot mark.

Q. Do you refer to photographs to fully explain this? A. I would like to refer to this photograph here (indicating one of the photographs produced).

Said photograph is offered in evidence and marked Libelant's Exhibit X¹⁶ Jan. 14, 1913.

Witness: This photograph (indicating Libelant's Exhibit X¹⁶), showing the fore peak bulkhead and the upper deck (which is marked on the tracing X¹⁵, figure "C"), also shows the first and second beam forward of this bulkhead. The second beam forward of the bulkhead has a sharp notch cut in it; in fact, the flange of the beam is broken through, and the beam is very sharply bent aft. This notch comes just at the end of the bracket, which I should judge is about 18 inches from the frames; that is, from the outboard edge of the frames. The next beam from forward, that is, the first beam forward of the collision bulkhead, is notched in about the same position and set aft in about the same way. In my opinion, this was caused by the stem of the Virginian striking these beams at that point. This is also apparent from the way the deck plating and the wood deck are cut away in line, the steel deck being afterwards crumpled back by the fullness of the bow as it came on. The top corner of the bulkhead, that is, the collision bulkhead, is sharply set aft and crumpled, apparently caused by the stem striking it there after leaving the two beams already referred to. The ends of the wood cargo battens, which are attached to the frames in No. 1 hold, are seen in

this photograph, the ends being splintered, and the frames in way broken off; and this would seem to indicate that the stem at this point was into a depth of the depth of the frames. The course of the stem as seen from this photograph would therefore seem to be a line about 18 inches from the end of beams Nos. 1 and 2 forward of the collision bulkhead on the main deck to the frame, or the depth of the frame, just immediately abaft the collision bulkhead. That would be frame No. 10 from forward.

I would like to refer to this photograph also (witness indicating another of the photographs).

Said photograph offered in evidence and marked Libellant's Exhibit X¹⁷, Jan. 14, 1913.

Witness—This photograph, Exhibit X¹⁷, seems to show the top corner of the collision bulkhead on the starboard side, and the damage immediately abaft of that; it also shows the upper deck plating curled, lying on the first beam abaft the collision bulkhead. The frame in way of this beam does not appear to have been touched by the stem of the *Virginian*. This would therefore appear to be the point on the main deck at which the stem of the *Virginian* cleared the frames of the *Strathalbyn*.

MR. BOGLE: How far is that abaft the stem of the *Strathalbyn*?

Witness—That is abaft the stem of the *Strathalbyn* (referring to X¹⁵, the figure "C"), which shows the main deck, the collision bulkhead as in line with the 5th beam. The beam that I have just referred to is beam No. 6.

MR. BOGLE: Is the bulkhead on the 5th or 6th beam?

Witness—The bulkhead is on the 5th beam. That is, about 22 feet, roughly, from the stem. That is calculated by the distance the beams are apart, which is about 4 feet.

MR. BOGLE: That is, the stem of the *Virginian* cleared the frame of the *Strathalbyn* at a point approximately of 22 feet from the *Strathalbyn's* stem?

Witness—That is right. That is, in line with the main deck. Above that she did not clear at that point—I should say above that she would have appeared not to

have cleared—on the forecastle deck she appears not to have cleared for other 4 feet, in other words, other two frames between. The appearance of the plating, as shown in this photograph, Exhibit X¹⁷—the plating is ripped off from the second frame abaft the collision bulkhead back to three frames abaft that, and is not crumpled, but seems to have been directly torn off; that is, the stem of the *Virginian*, being caught by the crumpled and wrecked plating, had torn the plating from these three frames. The appearance of the shell plating at the extreme left of this photograph, in which the stem bar can be seen attached, is uncrumpled. This is the starboard plating, and is not crumpled for a distance of, I should estimate, about 5 feet; showing that the stem of the *Virginian* must have entered on the port side and cut in clear of this plating without crumpling it. In other words, cutting away all the attachments holding this plating and leaving it clear without crumpling it. The stem, falling on its course, gradually came out until it got in line with the side plating, and then the crumpling commenced.

Q. What part of that photograph are you just referring to, Mr. Jack? A. I am referring to that (indicating).

Witness marks same with an arrow.

Q. Did you say that a part of the stem showed in that? A. Yes, the stem shows for almost two breadths of plating.

Q. Will you please identify that? A. Do you want me to mark the stem?

Q. Yes. A. I will put an arrow to the stem.

Q. Just take a pen and mark it, if you will.

Witness marks same with an arrow in ink.

Q. Will you write "stem" up at the top of that last arrow you made? A. Yes. "Stem bar"?

Q. Yes. A. Yes.

Witness writes "stem bar".

ADJOURNED till Wednesday, January 15th, 1913, at 10 o'clock A. M.

New York, January 15th, 1913.

10 o'clock A. M.

Met pursuant to adjournment.

Present: Mr. Hayden; Mr. Bogle.

CHARLES P. M. JACK'S DIRECT EXAMINATION

Continued by Mr. Hayden:

Witness—I would like to refer to this photograph.
(Witness indicating another of said photographs.)

Said photograph is offered in evidence and marked Libelant's Exhibit X¹⁸, Jan. 15, 1913.

Witness—From this photograph, X¹⁸, the plating on the first, second, third, and fourth strakes, counting from the upper strake, is seen cut away just at a point between the hawse pipe and the stem, that is, on the port side.

I would also like to refer to Exhibit X¹⁵, Figure "B". May I put a pencil on this?

Q. Certainly. A. (Witness using rule and pencil.) That is about the position of the center of the hawse pipe.

Q. Carry it forward, please, with an arrow and mark it.

Witness does so.

Q. Mark it "center of hawse pipe" there.

Witness does so.

Witness—That position of the hawse pipe is shown on Figure "A", that is, the outer end is shown on Figure "A", and the position of the inboard end is shown on Figure "B", and is clearly marked. This extension that I have made shows the position of the center of the hawse pipe at the outboard end.

Q. Which corresponds with what on Figure "A"?

A. Which corresponds with its position in Figure "A".

Q. Mark it please.

Witness does so.

Witness—I mark this with a line and an arrow, and write on it "hawse pipe."

I have another drawing which shows this. (Indicating.)

Q. What is that drawing? A. This is the repairers' sketch of the hawse pipe casting.

Said sketch is offered in evidence and marked Exhibit X¹⁹, Jan. 15, 1913.

Witness—This drawing, X¹⁹, shows the diameter of the hawse pipe to be 21 inches. It shows the size of the

oval end, that is, the outboard end outside the flange, to be 4 feet and 3 feet; that is, the long way of the oval is 4 feet and the short 3. The breadth of the flange is 6 inches at the top and 8 inches at the bottom.

Q. What do you mean by the flange? A. The flange here (indicating), I mean by the flange the lip at the outer end of the pipe; that is, where the pipe casting is turned over to connect to the shell plating.

From the scaling of the shell plating, as shown here, the hole through the shell plating would seem to have been about 2 feet 4 inches, that is, perpendicularly.

Q. What is the scale of Exhibit X¹⁹? A 1½ inch to the foot. The size of the hole—the other way is not shown, but from the top right-hand figure it would appear to be about 2 feet. That would give the pipe 3 inches clearance, as the pipe is 21 inches in diameter.

I would like to refer back to this X¹⁵, Figure "B". The scale of this is ¼ inch to the foot. The distance from the inside end of the stem to the center of the hawse pipe, that is, measuring along the plating, is about ¾ of an inch—in other words, 3 feet. Half the diameter of the hawse pipe hole would reduce this by 1 foot, which would leave 2 feet from the inside edge of the stem to the forward edge of the hawse pipe hole.

I would like to refer back to Exhibit X¹⁸. In this photograph it will be seen that the outboard end of the hawse pipe comes a little above the line of the main deck. It will be seen that the plating at the forward end of the hawse pipe hole, while torn, is not broken off, and the mark of the cut seems to have been between the stem and this hawse pipe hole at this point, tapering down from there to the 29-foot mark, at which point the two stems appear to have cleared. The shell plating immediately in way of this port hawse pipe seems to have been set bodily in, in other words, crushed in; particularly the plating on the upper strakes. The lower strakes are not quite so much set in. In my opinion, these plates were set in by the fullness of the bow of the *Virginian* after the stem had cut its way in. This fullness seems to have carried right through, crushing and turning up the wood deck and bending the deck beams aft, particu-

larly on the forecastle deck, and a little less so on the upper deck, and still less on the main deck.

Referring to Exhibit X¹⁶, the plating, as shown, on which the stem figure marks are, seems to have been torn right down and not to have been cut. The deck plating, that is, the main deck plating, as shown here, seems to have been cut along and curled back, and would seem to indicate that the stem of the Virginian cut right along through the frames in way of this deck plating and did not extend far into the deck plating, as the beam ends can be seen intact, although very much bent aft, the bending aft presumably being done by the fullness of the bow. It will be noted that the forward beam bent much further in than the deck plating, and would seem to indicate that the Virginian's bow plating had given in way of this steel deck, but had held in way of the beams, thus forcing the beams further in than the deck plating.

Q. Will you please mark the beam which you are referring to and the plating with an arrow? So that the identification marks can be distinguished in your testimony?

Witness does so on Exhibit X¹⁶.

Q. How do you identify them? I have marked with an arrow and put at the end "line beam," and marked another line with an arrow and at the end put on "deck plating."

I think that is all.

Q. Will you please take the photographs and indicate on this X¹⁸? You refer to strakes. Indicate what you mean by strakes by drawing arrows out in front of them, and mark them first strake, second strake, third strake.

Witness does so.

Witness—I have marked these with a line and an arrow about the center of each strake.

Q. And what do you mean by a strake? A. A line of plating running fore and aft.

Q. Will you take all of the photographs, please, and mark on them the different decks which you have referred to as far as they appear in the photographs, identifying the decks by some appropriate words?

Witness does so.

Witness—I have drawn a line and an arrow, referring to Exhibit X¹⁷, pointing to the upper deck at only point that I can see. The deck immediately above this is the forecastle deck, and that is the upper deck of all at this section.

Q. Can you see the main deck on this photograph?

A. No, you cannot see the main deck on this photograph.

Referring to Exhibit X¹⁸, I put a line and an arrow and mark "forecastle deck." I also put a line and an arrow and have marked here "upper deck." The other decks are not apparent in this photograph.

Referring to Exhibit X¹⁶, I have put a line and an arrow and marked "upper deck." I have also put a line and an arrow and marked "main deck."

Q. You referred to the main deck plating in one of those photographs? A. Yes.

Q. Will you please mark that? A. The arrow points directly to the main deck plating, which has at the end an arrow and line and "main deck."

Q. On this last exhibit you are referring to? A. On this Exhibit X¹⁶.

Q. Will you please mark on that X¹⁶ the collision bulkhead you have referred to?

Witness does so.

Witness—I have written it on the plating of the bulkhead.

Q. Please refer to and indicate the bent beams that you have testified about. Identify them. A. Referring to Exhibit X¹⁶—I would rather letter these beams, because there would be too much writing on this photograph.

Q. Identify them in any way you want to.

Witness marks on Exhibit X¹⁶.

Witness—I have marked the first beam forward of the collision bulkhead "A", that is, upper deck beam; and the second beam forward of the bulkhead "B". I find that there is another beam here, which I had not noted before, and I mark this third beam from forward "E". What appears to be the first beam forward of the collision bulkhead on the main deck I have marked "C", and what would appear to be the third beam forward of the

main deck I have marked "D"; I notice there seems to be a beam in between, which is not very distinct in this photograph.

Q. Will you please put an "X" at the point where the bend comes in beams "A" and "B"? I understood you to say that they were sharply bent back. I want to get the point where they were bent back; not the bent point where they were cut, but the point where they were bent back.

Witness does so.

Q. And the same on the beam that you have marked "E". A. "E" beam, as well as being bent back, is bent very considerably down, and it would be difficult—in fact, it is bent in so many ways that it would be difficult to put an "X" at any one bend.

Q. Then please indicate where the cutting into the beams appears by the stem of the Virginian?

Witness does so.

Witness—I indicate it with a large arrow.

Q. Mark those arrows "Z" for further identification.

Witness does so.

Q. You have referred to the bent stem. Will you please indicate that in some way? The stem that is bent below the 29-foot mark? A. You cannot see the stem itself in this photograph, but you can see the position of it. I will indicate with an arrow the top of the plating in way of the stem which is not broken away from the stem. That is, about the 29-foot mark. I will mark this with an "O".

Witness does so.

Q. You spoke about a tear in the plating below the 29-foot mark in the bow. Will you please indicate that tear?

Witness draws line and arrow and marks it "T".

Q. Will you also mark the cargo battens? Just write "batten" on them.

Witness does so.

Q. What is this longitudinal object which seems to run through the picture? A. That is the chain pipe for the anchor cable running down from the after end of the windlass to the chain locker.

Q. Mark it "chain pipe," will you, please?

Witness does so.

Witness—I have written on top of the pipe "chain pipe."

I would like to say that on Exhibit X¹⁶, on the third beam forward of the collision bulkhead, there is also a notch, which is very close to the starboard end of this beam, and seems to have been done by the stem striking this beam. I should estimate that this is about 18 inches from the outboard end of the beam bracket. This is the bracket that connects the beam to the frames of the vessel. This notch would therefore be about not more than 2 feet from the shell plating in way of this beam. The main deck beams, that is, the deck below the one I have just referred to, do not seem to have been notched into at all, but are merely bent aft and do not appear to have been touched by the stem of the Virginian.

Q. Will you please indicate where the cargo battens are, referring to Exhibit X¹⁷?

Witness does so.

Witness—I have pointed to three cargo battens with arrows, and have written on the side of the photograph "cargo batten."

Q. Will you please identify the beams and decking on that photograph and other matters to which you have testified? A. Referring to Exhibit X¹⁷, I will mark the upper end of the collision bulkhead with a "C". I might in passing say that it will be noted from this photograph that this plating is intact, although badly bent.

Q. What plating? A. The plating of the upper starboard corner of the collision bulkhead. It has been torn away from the frames. I mark the frame on the bulkhead "F¹." The first frame abaft the bulkhead is missing. I mark the second frame abaft the bulkhead "F³," and the reverse frame attached to this frame I mark "RF³." The third frame abaft the collision bulkhead I mark "F⁴," and the fourth frame "F⁵."

The first beam abaft the collision bulkhead, that is, the first upper deck beam, I mark "B¹;" and the second one I mark "B²." I would like to here point out that frame "F³" and frame "F⁵" are both connected to beams, and that there is no beam in way of frame 2 or frame 4,

frame 2 having been entirely carried away down as far as this photograph shows, and the upper end of frame 4 only showing. It would seem to indicate that these frames had been torn away with the plating, and that frames F³ and F⁵ were not broken away on account of the extra strength given them by their attachment to beams B¹ and B².

The crumpled upper deck plating I have marked "D".

I have not referred to the forecastle deck beams, and I now mark them "FB" and "FB²." FB¹ seems to be broken off about a foot to 18 inches from the bracket at the starboard end. FB² seems to be broken off much further in, and is sharply bent, and would appear to have been bent right back before breaking off.

On this Exhibit X¹⁷ I have an arrow pointing to the upper end of the stem bar, and have marked this "S". I have put an arrow pointing to the starboard plating which is still attached to this part of the stem, and have marked this "PS", meaning plating starboard.

I have put an arrow pointing to the port plating attached to this piece of stem and marked it "PP". This shows the inside of this plating, not the outside. At the head of this piece of stem there is a white mark, which is apparently the white strip which is shown at the foot of the plating marked "Strake 1" on Exhibit X¹⁸, and which is carried right around the vessel.

On Exhibit X¹⁷, from the stem marked "S" and stem plating marked "PS", it is seen that the plating is broken off almost at the root of the stem bar. I am referring now to the starboard plating.

Q. Will you refer to photograph X¹⁸ and indicate where in your opinion the stem of the Virginian struck the Strathalbyn? A. To do this I would require to list the photograph or angle it to show the vessel with a list.

Q. Did she strike forward of the hawse pipe, in your opinion? A. Yes. But I would much rather show this. But it would be very difficult to indicate from that photograph where it is. You see, if we put a line on top of this (indicating), the plating is not in the position it was in when the stem was there; that is, the Virginian's

stem would appear to be much further in than it actually was if we put it on top of that.

Q. Then refer to your Exhibit X¹⁵, please, the drawing, and indicate on the various figures, such figures as you think will best show it, where the Virginian's stem entered the bow of the Strathalbyn, and where it comes out, and the line of damage? A. You want the course of the stem of the Virginian as I think it went on each of these decks?

Q. Yes. A. I mark on Figure "C"—

Q. That is what deck? A. This is the upper deck, I mark with an arrow the point at which I think the stem of the Virginian entered—I mark that "EN".

Q. I mark with an arrow and the letter "L" the point at which I think the Virginian's stem cleared the frames.

Q. Then, if you can by referring to those photographs, give us the direction showing on the Exhibit X¹⁵ the same relative points of contact on the beams that are shown in the various photographs that you have referred to. A. Referring to Exhibit X¹⁶, I will mark on Exhibit X¹⁵, Figure "C", beams "A", "B" and "E".

Q. Make them correspond in the lettering too, will you? A. Yes.

Witness does so.

Q. Describe what you have done there. A. I have marked on top of the dotted lines which show the beams, "A", "B", "E".

Q. Also mark, please, on those respective beams, where the notches appear (indicating Exhibit X¹⁵), and mark them the same as you have in the photograph X¹⁶.

Witness does so.

Witness—I have marked them with an arrow and "Z".

Q. Will you mark the beam that shows the position of the collision bulkhead on Figure "C" on Exhibit X¹⁵? Mark it "collision bulkhead". A. I will mark this "bulkhead line," as the bulkhead does not extend above this deck.

Q. Can you indicate on these beams the point at which they seem to be bent back, and also on the port bow the point at which the plating on this deck seems to

have been bent back from? A. It would be very difficult to put that in accurately.

Q. As you remember it. A. I can put in as my eyes see it on this photograph (indicating Exhibit X¹⁶).

Q. Mark it with an "X", the same as you have on the photograph X¹⁵.

Witness does so.

Witness—I have put an "X" on beams "A" and "B" at the point at which I think they are bent as shown in the photograph.

Q. What became of this frame extending right across the bow—the first frame aft from the stem? A. I think it is probably in the wreckage, but it is not shown on the photograph.

Q. Was it carried away? A. Yes, it appears to have been. But it may be in behind the plating which is curled over. That beam is a very sharp one.

Q. Now will you indicate on the next deck below the deck represented by Figure C on X¹⁵ the same course?

A. Witness does so.

A. I have marked the point "EN" at which I think the stem of the Virginian entered.

Q. That is on what figure on Exhibit X¹⁵? A. "D". The stem would appear to have cleared all the frames in line with this deck, with the exception possibly of frames which I mark "F²" and "F³." The stem seems to have cleared just abaft frame F³, and the plating abaft that appears to have been torn off. That is, that the stem of the Virginian was not behind this plate. That is apparent by the appearance of the frame on the fore peak bulkhead, which can be seen to be almost intact up nearly to the main deck line, that is, the deck above the one shown on Figure D. The photograph I refer to is Exhibit X¹⁶.

Q. Is there any damage shown in the cutting or tearing of the plates—damage to the beams, to the decks, or parts of the vessel below that deck represented by that Figure "D" on Exhibit X¹⁵? A. Yes. There is damage to the stringer plate on the first stringer below that deck. But this was principally caused by the stem being set over to port and crumpling these plates. The side and frames were also set in between the stem and

the fore peak bulkhead in line with this upper stringer, as shown on Figure E.

Q. Where was that fore peak bulkhead? A. I will mark it "FP bulkhead."

Witness does so.

Q. How far up does that extend? A. That extends up to the upper deck.

Q. Now, Mr. Jack, I wish you would put the distances from the stem back to the first beam &c. on the decks and drawings indicated by C, D, E and F. A. The distance between the beams is approximately 4 feet.

Q. What is the distance between the root of the stem and the first beam aft of it? A. About 2 feet. I have marked on Exhibit X¹⁵, Figure C, about 4 feet, and have shown this in between the line of each beam, that is, up to the beam just abaft the bulkhead line.

Q. Now please tell us what the width of the ship is on the deck indicated by C in Exhibit X¹⁵ at the bulkhead and forward, across the different beams A. The bulkhead beam is 24 feet 8 inches, that is, from the outside shell plating on the port side to the outside shell plating on the starboard side.

Q. Give us the distance of the width of the ship on the next beam forward, marked on the drawing as "A". A. 20 feet.

Q. And the next one forward, marked on the drawing B. A. 14 feet 9.

Q. The next one forward, marked on the drawing as E. A. 9 feet 4 inches.

Q. And the next one forward—the last beam towards the stem. A. 3 feet 6 inches.

Q. Now, referring to the diagram D on Exhibit X¹⁵, give me the distance across the ship on the beam marked F³. A. 13 feet 5 inches.

Q. And the next forward of that, marked F²? A. 8 feet 2.

Q. And the next one forward of that, marked EN. A. 3 feet.

Q. Now, Mr. Jack, referring to the drawing marked B on Exhibit X¹⁵, please show on that drawing the point of contact and line of strike of the Virginian as she was entering the Strathalbyn. A. I mark this "EN."

Witness does so.

Q. And what have you marked there? A. I have marked there "L."

Q. And what does "EN" stand for? A. "EN" stands for the point at which I think the stem of the Virginian entered, and "L" represents the point at which I think it cleared the beams, as shown in photographs Exhibits X¹⁸ and X¹⁷. That frame No. F⁵ was not broken away at the head, that is, in line with this forecastle deck.

Q. You might mark F⁵ on the drawing B on exhibit X¹⁵ to show the corresponding position of F⁵ in photograph X¹⁷.

Witness does so.

Witness—I have marked this with an arrow and a line with the figures "F⁵." The frame itself is not shown on this drawing, but the position of it is indicated by the dotted line running right across the ship, which is the line of the beam, and the frame comes in line with the beam.

Q. On account of the upper part of Figure B on Exhibit X¹⁵ being cut away, are you able to give the width of the ship from this line (my finger is on a line run through the stem through apparently the center of the picture) to the side of the ship? A. Yes, I can give you that.

Q. All right. Then give us the breadths of the ship on the beams, commencing with F⁵ forward on the Figure B, which I understand is the forecastle deck line. A. Yes. The breadth of the vessel on line with the beam which is in the line of the frame F⁵ is 38 feet 10 inches.

On the next beam forward from that the breadth is 36 feet.

On the next beam, 32 feet.

On the next beam, 27 feet.

On the next beam, 21 feet.

On the next beam, 13 feet 6 inches.

And on the next beam, which is the forward beam of all, 4 feet 10 inches.

Q. I don't think we got the distances across on Figures E and F. Will you please tell us what they are?

A. This is the breadth in line with the fore peak bulk-head, 19 feet 9 inches.

Q. That is on Figure E? A. Figure E. In line with the next beam forward of that, 16 feet.

In line with the next beam forward of that, 12 feet.

In line with the next beam forward of that, 7 feet 3 inches.

And the next beam, which is the forward beam of all, is 2 feet 9 inches.

Q. Now give us the distances as shown on Figure F. A. In line with the third beam from forward, 11 feet.

On the second beam from forward, 6 feet 9.

On the first beam from forward, 2 feet 6.

Q. Are you able to tell by your drawings, or do you know, the height between the different sections as shown on this Exhibit X¹⁵? A. No, I cannot give it accurately from this; but they are, roughly, about 8 feet apart. They are shown on the blue print, Claimant's Identification 5-5. The distance between the fore-castle deck and the upper deck, as shown on this blue print, is 7 feet 10 $\frac{1}{4}$ inches.

Q. And that is between what figures on Exhibit X¹⁵? A. That is between the Figure B and Figure C; the distance between C and D would not probably exceed this.

Q. Can you tell, by taking the strakes of plating, referring to the photograph Exhibit X¹⁶, the distance between the upper deck and the next below it—the main deck? A. No.

Q. Referring now to drawings B, C, D, E and F, on Exhibit X¹⁵, are the beams on each of those drawings perpendicularly above the one below? A. Yes.

Q. Do you think of anything else, Mr. Jack, that you want to say, in connection with this matter, that has not been gone into yet, to indicate the reasons for your opinion about the angle of contact and the direction of the blow? A. I don't think so.

Q. Mr. Jack, assuming that the Virginian is a vessel 492 feet long, 58 feet 3 inches beam, 31 feet 9 inches depth, with a net tonnage of 5,077 and a gross of 7,914, with a carrying capacity of 11,000 tons, with approxi-

mately 2,000 tons of cargo aboard of her, entering the bow of the Strathalbyn as you have indicated, piercing through the same in the directions you have indicated, and the vessels being together at the most but a few seconds, what is your opinion as to the collision altering the course or direction of the Virginian? A. You mean altering the line of the Virginian's keel, say?

Q. From the time it would come in contact with the Strathalbyn till it would pass out at the point you have indicated. A. Well, I don't think it is conceivable that there should be any appreciable alteration in the course in a short period of time such as a few seconds; and to make a perceptible distance in a course of a vessel 490 feet long would mean to shift either extremity, that is, either the bow or the stern, quite a distance; that is, that in 400 feet a difference of a point is quite a lot; it would mean the pushing over of the entire forward end a great many feet; and I don't think it is conceivable that a large mass such as you represent the Virginian to be, say with her cargo and the weight of the ship displacing possibly 7,000 or 8,000 tons, should have its direction changed perceptibly in a short period of time; that is, anything under a minute or half a minute. I judge that the actual time expired between the time that the stem of the Virginian entered the Strathalbyn and the time when she cleared, or when she finished the cut, could not be more than a second or, at the outside, two.

(Recess.)

CROSS EXAMINATION BY MR. BOGLE.

Q. Mr. Jack, referring to Exhibit X¹⁵, Figure D, you have marked the point at which you think the stem of the Virginian entered the hull of the Strathalbyn, designated by "EN." Will you kindly mark where in your opinion the stem of the Virginian left the frame of the Strathalbyn on that deck? A. I think in my previous testimony I have stated that in my opinion it cut right along just inside of that plate and left about the third beam from forward, or between the third and fourth beam from forward.

Q. What deck does Figure D represent? A. "D" represents the main deck, or the third deck from the fore-castle deck—the third deck from top.

Q. Then on that deck the stem of the Virginian entered the hull of the Strathalbyn on the starboard side of the Strathalbyn? A. That is my opinion.

Q. About how far abaft the stem? A. May I refer to these? (Indicating photographs.)

Q. Anything that you want to refresh your recollection from while you are giving your evidence about it. A. My opinion is that the stem of the Virginian just cleared the stem of the Strathalbyn and took the side plating of the Strathalbyn about 2 to 3 feet abaft the after end of the stem.

Q. What is the depth of the main deck, Figure D, in Exhibit X¹⁵? I mean what water-line would it represent? A. About the 29-foot water line.

Q. The stem and bows of the two vessels below that line passed starboard to starboard, did they not? A. Yes.

Q. How far above this main deck did the stem of the two vessels meet head on? A. I should judge 2 or 3 feet above; that is, above the 29-foot mark.

Q. And that would make it about the 31st or 32nd foot line? A. I should judge between the 30th and 31st foot mark.

Q. Of the Strathalbyn? A. Of the Strathalbyn.

Q. How much of the bow of the Strathalbyn was there above that line? A. I refer to Exhibit X¹⁵, Figure A. It is shown here that the length from the stem head, that is, the topmost part of the stem, down to the 14-foot water-line of the draft mark, was about 34 feet 3 inches.

Q. State what would be the distance from the upper deck to the 31-foot line, at which in your opinion the stems of the two vessels crossed. A. It would be 17 feet above the 14-foot mark.

Q. Just give it in definite figures. I repeat the question: State what would be the distance from the upper deck to the 31-foot line, at which in your opinion the stems of the two vessels crossed. A. The upper deck?

Q. That is the top deck, isn't it? A. Yes, that is the top deck.

Q. From the upper deck, or the top deck, down to the point where the stems of the two vessels crossed. A. By top deck you mean the forecastle deck?

Q. I mean the upper deck. A. The forecastle deck?

Q. The uppermost deck; I don't know what you call it. A. Yes, the uppermost deck, the forecastle deck. From this drawing I figure the distance from the forecastle deck to the 31-foot mark to be about 17 feet.

Q. Was there any damage to the hull of the Strathalbyn below the 29-foot mark, or below the main deck? A. Below the 29-foot mark the stem was set over to port, and the plating in way, particularly in way of the 29-foot mark, and down to perhaps about the 14- or 15-foot mark, was crumpled.

Q. And below the 14-foot mark was there any damage to the hull of the Strathalbyn? A. Very little. The plating might have been slightly unfair.

Q. Was it scraped on the starboard side? A. No, I don't recall it being scraped.

Q. If, as a matter of fact, the hulls of the two ships scraped together below that line, would it create any damage or not? A. No. I don't think they had, because the rounding in of the bows of both steamers had commenced about that point. The cut-away of the forefoot of the Strathalbyn is shown in this tracing. It seems to commence about the 14-foot mark.

Q. What is the extent of the overhang of the forecastle deck with respect to the main deck? A. In respect to the deck immediately below it or to the main deck?

Q. To the main deck; to the 29th foot. A. That is, to the second deck below?

Q. Yes. What is the forward overhang? I mean at the bow. A. Is there any particular place that you would have it?

Q. At bow or stem. A. Suppose I give it to you on the third beam from forward?

Q. Yes. A. The breadth on the third beam from forward on the forecastle deck is 21 feet.

Q. 21 feet of what? A. The total breadth.

Q. You misunderstand my question. A. I will take it up with the other one and give you the difference.

Q. I mean the overhang of the bow, and not the width of the vessel. A. This will give you the over-

hang of the bow by taking the two breadths on the same section.

Q. Any way you get it. Work it out your own way. But what I want is the overhang of the stem at the fore-castle deck with respect to the main deck. A. Oh, the overhang of the stem?

Q. The stem. A. To the best of my recollection, the stem, in relation to the perpendicular, that is, to a perpendicular line from the keel of the vessel—the head of the stem was about $2\frac{1}{2}$ inches forward of an extension of that line put across a base line.

Q. $2\frac{1}{2}$ inches? A. Yes. That is to say, that the head of the stem was forward $2\frac{1}{2}$ inches more than the base of the stem if it were extended to the line of the keel.

Q. You mean to say that the stem at the fore-castle deck was only $2\frac{1}{2}$ inches beyond the stem measured lengthwise of the vessel at the main deck? A. No. At the keel.

Q. What is it at the main deck? A. At the main deck it would be a small proportion of that. Say perhaps $\frac{1}{4}$ of an inch—between $\frac{1}{4}$ and $\frac{1}{2}$ an inch.

Q. On Exhibit X¹⁵, Figure C, you have marked the point of entrance of the stem of the *Virginian* into the hull of the *Strathalbyn* with an arrow, marked "EN," and the part where the stem cleared the frame of the *Strathalbyn* with an arrow "L". Is it your opinion that the line between those two points gives the course and direction of the stem of the *Virginian* in passing through the *Strathalbyn*? A. It is.

Q. And, if I understood your testimony correctly, an extension of that line will give the course and direction of the *Virginian* as she approached and at the time she struck the *Strathalbyn*? A. Yes; immediately before the collision that would be the relative position.

Q. And that direction, as you estimate it, was about $3\frac{1}{2}$ points off the boart bow of the *Strathalbyn*? A. Yes.

Q. If the course of the *Virginian*, with respect to the *Strathalbyn*, in passing through the *Strathalbyn*, was deflected in any way, your calculation would be all wrong, wouldn't it? A. Yes.

Q. What would be the effect of an impact upon the port side of the Strathalbyn at the point you have indicated near the stem of a vessel of the size of the Virginian? Would it not shove the bow of the Strathalbyn towards the Strathalbyn's starboard? A. Given long enough time, it would; a blow on the port bow of the Strathalbyn would, I would expect, do about as happened in this case—go right through without moving the object.

Q. That is a matter of conjecture, however, is it not? A. Yes.

Q. If, in point of fact, the impact of the Virginian did shove the bow of the Strathalbyn over to starboard, the conclusion you reached as to the course and direction of the Virginian in approaching the Strathalbyn would be wrong to that extent, wouldn't it? A. Yes. But it is inconceivable to me that, in a short period of time, the Strathalbyn's bow would be shoved over any perceptible distance, displacing the great amount of water that it would have to get over. In other words, you would have to, at a point right at the end, shift a vessel, that was say 370-odd feet long and 24 feet deep, bodily over, and displace in a short time the great amount of water necessary to put her in a new position.

Q. You, of course, know nothing about the relative positions of the vessels at the time of the collision or immediately succeeding the collision? You were not on the ground at the time? A. No; I know nothing about it.

Q. If, as a matter of fact, at the time this collision ended and the vessels pulled apart, the Strathalbyn was pointing at practically right angles to the Virginian and to what was her starboard at the time that the collision took place, would it not be evident that she had been shoved right into that position by the impact of the Virginian? A. Yes. Given sufficient time, a blow or pressure acting on the stem would tend to alter the vessel's course, or alter her relative position; but it would take some considerable time for that force to act.

Q. If her position was altered by the time the collision was through, it would be attributable to that impact, wouldn't it? I mean if it is established by evi-

dence of parties on the ground that her position was switched around so that her bow was pointing to the starboard, it would be the result of that impact, wouldn't it? A. Well, providing no other force was acting tending to alter the positions of the vessels, it would be so; but, if the rudder, or some other thing, or the vessel had been swinging, it would be different.

Q. If the swing took place during the collision it would not make any difference whether it was weather, or tide, or impact, would it? It would make the conclusion you have reached erroneous, wouldn't it—the conclusion you have reached an erroneous one? I mean your conclusion as to the direction of the *Virginian* at the time of the collision. A. No. I can't agree with that, because I contend that the time between the time that the stem of the *Virginian* entered the bow of the *Strathalbyn* to the time of the final cut, or to the time that she had cut right through the frame end plating, was so small that any variation in the directions of the two steamers would almost be imperceptible in that cut.

Q. That is your theory about it? A. Yes.

Q. If, as a matter of fact, the position of the *Strathalbyn* was changed by the impact of that collision, I want to know if the conclusion you have drawn as to the course and direction of the *Virginian* prior to the collision is not erroneous?

MR. HAYDEN: I wanted to object to that. It is assuming a condition of affairs that the evidence has not shown existed.

A. No. Because my conclusions are drawn from the position of the two vessels between the time of the first strike until the cut had been completed, which would only be a very, very small space of time, and that any variation in course in that time would not seriously affect the general direction of the cut.

Q. You say that any variation in course would not seriously affect the direction of the cut. Just what do you mean by that? A. I mean—I have stated, I believe, the cut was from this point "EN" to this point "L", and that any variation in the directions of these two vessels in that distance, in the short space of time that the stem took to go from "EN" to "L" would be so

imperceptible that it would not make practically any variation at all.

Q. In other words, you think there was not any change in the position of the two vessels with respect to each other during the time that the *Virginian* was passing through? A. I don't think there was any perceptible difference. The vessels might have been swinging, or they might have been changing; but in the time that the stem took to go 20 feet the swinging or change of the angles on one vessel to the other would be very, very small.

Q. But to whatever extent there was a change in the angle of the two vessels to each other, your conclusion as to the course and direction of the *Virginian* prior to the contact, to that extent, would be inaccurate, wouldn't it? A. Yes, to any change that there could be in the vessels in that time; that is, in the time that the stern took to go from "EN" to "L".

Q. Now, Mr. Jack, you understand that the *Strathalbyn* had a rather heavy starboard list at the time of this collision? A. So I am informed.

Q. And she had a full cargo of lumber? A. Yes.

Q. Loaded down to her water line? A. Yes.

Q. The *Virginian*, as you understand, was on an upright keel? A. So I have been informed.

Q. And the *Virginian* striking just abaft the stem on the port side of the *Strathalbyn*, the stem at that point, which is the upper deck, passed to the *Virginian's* port side, and below the 31-foot water line the hulls of the two vessels passed to starboard. Now, that necessarily resulted in the scraping of the hulls of the two vessels as they passed to starboard, didn't it? A. Yes.

Q. And the bulge of the vessels increased as it got a little further back from the bows? A. Yes.

Q. Wouldn't that inevitably either crush in the bows of one or the other vessel at that point, or push the vessels apart? A. Yes.

Q. The result being to push the *Virginian* to her port sheer off from the *Strathalbyn*, wouldn't it? A. Well, providing there was no cut-in. If there was a cut-in there would be the resistance of the frames and plates to be torn off, which would tend to keep the stem,

that is, the *Virginian's* stem, in the position it was cutting in. In other words, as well as the force that was working on the starboard bow of the *Virginian* tending to force her away from it, there was another force on the port bow of the *Virginian* which was tending to hold her to it. It is a question of which of these two forces would be the most; but the force on the port bow of the *Virginian* must have been very severe to have torn all these frames and beams and deck plates apart.

Q. If the contact occurred as you have indicated, the *Virginian* coming from a course $3\frac{1}{2}$ points off the *Strathalbyn's* port bow, would not the inevitable result have been for the contact of the lower portion of the bows of the two vessels to have sheered the *Virginian* off to her own port, and the contact with the upper deck of the *Strathalbyn*, the *Virginian* having the greater weight, would have carried the bow of the *Strathalbyn* around to her starboard? A. If the pressure had been brought on this point "EN", where they entered, slowly and steadily, the natural result would have been to force that bow around. But the actual impact was more or a blow which cut right through. It seems to have right through the plating immediately and expended itself in getting through the plating. In other words, as soon as it had cut through the plating there was no longer a force acting to tend to deflect the bow of the *Strathalbyn*.

Q. Is it not the fact that the stem of the *Strathalbyn* was warped around to her starboard, instead of being broken and pulled and pushed around to her own starboard? In other words, the *Virginian* did not cut through that part of the *Strathalbyn*, but shoved it around to the *Strathalbyn's* starboard side? A. Oh, no; the *Virginian* cut right through the plating and carried the stem with it right around and left it along with the wreckage.

Q. The stem of the *Strathalbyn* was carried around to her port side, was it not? A. The lower part of the stem was, that is, below the 29-foot mark; but the upper part was carried around on the other side—that was carried around on the starboard side and lay amongst the other wreckage or as part of the other wreckage.

Q. I ask you if the stem of the Strathalbyn was not shoved around to her starboard? A. Yes. It was cut away and then carried around along with the rest of the wreckage to her starboard down to the 29-foot mark.

Q. Mr. Jack, does not the question of the speed of the two vessels enter into this problem you are giving an opinion on as to whether the impact would shove the bow of the Strathalbyn around? A. Yes.

Q. Or the contact of their lower bows would sheer the Virginian off? A. Yes. I have considered that.

Q. How could you consider it, when the question of speed has not been mentioned in any of the questions that have been put to you?

MR. HAYDEN: I object to that question as not being in accordance with the fact. The question that I asked Mr. Jack I based on the testimony of Captain Green that the contact was very quick, Mr. Green having testified that the vessels were not together longer than he could snap his finger.

MR. BOGLE: I want to object to counsel making these suggestions in the presence of the witness.

Q. Has the speed of either of these vessels been given to you in any of these questions that have been put to you in regard to the course and direction of the track through the vessel? A. Not that I recall.

Q. Then, if you have to take speed in consideration in reaching the conclusions that you have reached, what did you take as the speed in reaching them, or did you have any? A. No, I didn't have.

Q. Then you guessed at the speed by the character of the cut or break?

MR. HAYDEN: Same objection; and that in my question to Mr. Jack I spoke about the vessels being together a few seconds.

A. I did not guess at the speed, because I would be more or less familiar with talk in connection with this collision, and I knew that the vessels were not traveling—either of them was not traveling—very fast at the time, and that immediately after the collision they were not passing each other at any great speed.

Q. What speed have you estimated that each ves-

sel had at the time of contact, in working out your conclusions? A. In knots I have not had any actual figure of speed at which the two vessels were coming together, but I have had it in my mind that the speed was such that in fact it was just an expended blow, or, in other words, that the vessels were coming to rest, and that they would not pass each other had they not collided; that is, that the way that was on either vessel would not be sufficient—I will say that the way that was on the *Virginian* would not have been sufficient if she had not collided to take her more than perhaps her own length or perhaps two lengths.

Q. And you still think that, going at that slow rate of speed, the *Virginian* would not have shoved the bow of the *Strathalbyn* around to the *Strathalbyn's* starboard by that impact? A. No, I still say, and I still think, that had she not pierced the plating immediately on striking, she would then have had a much more tendency to alter the course of the *Strathalbyn*; but after she pierced the plating and beams, I don't think that the tendency would then be to shove the bow around at all.

Q. It is true, Mr. Jack, is it not, that the contact of the bows starboard to starboard below the 31-foot line had a tendency to sheer the *Virginian* further over to the starboard side of the *Strathalbyn*; whether it actually affected a perceptible sheering or not, that was the tendency? A. Yes, below the 29-foot mark that is the case. Above the 29-foot mark it is not the case.

Q. She was on an even keel. If she shoved over at all, the whole vessel would be shoved over, wouldn't it? A. Yes. But the upper part above the 29-foot mark had the frames, the deck plating, etc., of the *Strathalbyn* tending to keep it over the other way.

Q. Mr. Jack, when did you reach Tacoma on this trip? A. On Monday morning, the 22nd of January.

Q. When did you leave for New York after your work was finished? A. I think about March 15th.

Q. When were the repairs on the *Strathalbyn* completed and she went to sea re-loaded after the accident? A. They were finished about that.

Q. Did she leave the Sound before you did? A. No.

Q. She was still there when you left? A. She was still there, loading the remainder of the cargo that had been discharged

Q. You stated, I believe, that at the time these measurements were taken of the forward deck of the Strathalbyn at Esquimalt, there were present, besides yourself and Mr. Walker, Captain Logan, representing the underwriters on the Strathalbyn, Mr. Hayden, Mr. Bogle, and the captain and first officer of the ship? A. Yes.

Q. Mr. Hayden was the representative of the owners of the Strathalbyn, was he not? A. As I understand it, Mr. Hayden was acting for the Strathalbyn's interests.

Q. And Mr. Bogle was representing the Virginian's interest? A. Mr. Bogle was representing the Virginian's interest.

Q. You were representing the Strathalbyn interest. Mr. Walker was the surveyor for the Virginian interest? A. Yes.

Q. In point of fact, these measurements were made by you and Mr. Walker or under your directions? A. Yes.

Q. Captain Logan, while present, was not a party to the making of the measurements, was he? A. Captain Logan was a party, in other words, he attended to the taking of these measurements in an official capacity.

Q. He took no notes, did he? A. Not to my recollection.

Q. No one took notes of these measurements except yourself and Mr. Walker, so far as you know? A. I believe Mr. Hayden took some notes. He did not take all the notes. To my recollection, I remember he took some.

Q. After you had finished the measurements did you compare your notes with Mr. Hayden's? A. With Mr. Walker's.

Q. No. Mr. Hayden? A. No.

Q. You merely compared with Mr. Walker's? A. Just compared with Mr. Walker's.

Q. You understood that you and Mr. Walker were

to make measurements and agree on measurements?
A. Yes, and Captain Logan.

Q. And Captain Logan. And that was for the common benefit of all interests affected? A. Yes; and Captain Logan—he said, “There is no use of all taking notes. You fellows take the notes, and we will take them afterwards.”

Q. Mr. Hayden was from Tacoma, was he? A. Yes.

Q. And Mr. Walker and Mr. Bogle were from Seattle? A. Yes.

Q. And you at that time were making your headquarters in Victoria? A. That is right.

Q. Captain Logan was in Victoria? A. Yes.

Q. And the vessel was in Esquimalt? A. Esquimalt.

Q. And the captain and the mate were on the vessel? A. That is right.

Q. What was the purpose of taking these measurements? A. Well, Mr. Hayden wanted to have the measurements or something in connection with the case. I don't know just exactly what his ideas for most of the measurements were, but I take it, in a general way, he wanted to ascertain the position of the direction of the side lights—the lights and the side lights with reference to the deck cargo.

Q. The real object was to determine whether those side lights were obscured by the deck cargo, was it not? A. Yes.

Q. You say that Mr. Hayden wanted it. You understood that the representatives of the Virginian wanted the same information, and that is the reason you had a joint measurement, did you not? A. Well, I didn't know until the arrival of these different gentlemen on that morning that any representative of the Virginian were going to be there; and my idea then was that they wanted to be present at the taking of any measurements which might be used later.

Q. Mr. Jack, didn't you understand, either from Mr. Hayden or from some of the other parties in connection with the matter, that the representatives of the Virginian wanted to take these measurements to ascer-

tain the location of the lights, and that it had been agreed by both parties that, instead of having each take separate measurements, they would have you, as the representative of the Strathalbyn, and Mr. Walker, as the representative of the Virginian, Captain Logan, if he desired to join, as representative of the underwriters, to take these measurements for the joint benefit of all the parties? Didn't you understand that was the reason they were all there? A. I didn't understand it so. By looking back on it now, I think that is probably the natural way to look upon such a meeting.

Q. Why was it that you subsequently took steps to get Mr. Walker to sign the blue print and O. K. it as correct, if you understood it was to be used by the Strathalbyn interest only? A. I wanted to have Mr. Walker agree to the figures that had been taken, that is, officially agree to the figures that we had already taken and checked over.

Q. After these measurements were taken and you and Mr. Walker had compared your notes, they agreed, I think you said? A. Yes; that is, substantially agreed. There might have been some figures that he had that I had not, and some figures that I had that he had not.

Q. As a matter of fact, there were quite a number of measurements taken, of which neither of you kept any record, because you decided later that they were not material, did you not? A. Well, I have a record of a figure 17 feet 1 that I recall in my notes, and I don't remember what that was; I don't remember what it was taken on; and there were on the forward deck, I think probably before we started off to take measurements at all, that the tape was stretched perhaps a couple of times across the deck before it was decided on what breadths these measurements should be taken, and it was eventually agreed that they, I think, would be taken about 12 feet apart.

Q. Mr. Walker and all the other gentlemen except yourself and Mr. Logan returned to either Seattle or Tacoma after these measurements were completed, and you and Mr. Walker had agreed on your notes? A. Yes. They returned, I think, with that afternoon steamer.

Q. And it was left for you to arrange with the draftsman to make a tracing and the blue print? A. Yes.

Q. And you did that? A. Yes.

Q. Who was the draftsman that you engaged? A. The draftsman of the B. C. Marine Railway Co.; those were the people that were doing the repairs.

Q. Was he present at the time you and Mr. Walker made the measurements? A. No.

Q. He was an employee of the company doing the repairing on the Strathalbyn? A. He was.

Q. And did you arrange with him that afternoon or the next day? A. I arranged with him, I think, probably that morning, because I arranged with him on the Saturday; this was on Monday that these measurements were taken, and on the previous Saturday I arranged with him to come down to the ship and bring what instruments he might consider necessary to take the dimensions of the ship. I thought that we might require them at this survey. I told him to get such dimensions as were necessary to make a drawing and tracing of the outline of the forward end of the ship.

Q. That was to give the sheer of the ship? A. To show the sheer, and also to show the plan view of the forward deck and a section looking on the forward end of the bridge.

Q. But the point at which you and Mr. Walker made your measurements—took your notes—he knew nothing about until you furnished him that information? A. No; he couldn't know anything about it.

Q. And he made a tracing and submitted it to you? A. That is right.

Q. And you examined it, did you? A. I did.

Q. And compared it with your notes? A. Yes.

Q. The matter was fresh in your recollection at that time? A. Reasonably so.

Q. It was only a few days after the measurements had been taken, I think? A. Yes, it would be probably within a week, I think.

Q. Did you submit that tracing to Captain Logan before the blue prints were taken? A. I am not sure. I think Captain Logan and I both looked at it in the

drawing office of the B. C. Marine Railway at Esquimalt.

Q. And after you satisfied yourself that the tracing was correct you instructed him to take off the blue print? A. I told him to take one blue print.

Q. Was there any special reason in taking only one, Mr. Jack? A. Well, I thought that one blue print would be—there would be only the one statement. In other words, I didn't want the figures to be put on a tracing, which would be duplicated a number of times, and I thought the idea was to have one form of evidence of what had actually been taken, and I thought it better and more reliable to have a blue print, which would not be duplicated and could not be changed.

Q. Mr. Jack, is it not customary among the marine surveyors, when they join in work of that nature, which is reported in a tracing and a blue print, signed by the surveyors who have done the work, to furnish each of the surveyors who sign it with a copy? A. In some cases it is and in some cases it is not.

Q. It is unusual, is it not? A. Oh, no.

Q. Isn't it your own practice to take it, where you — A. No, I have no copy of that blue print, and never had a copy.

Q. Your clients have? A. Yes. But my understanding was that this record—this blue print—was to go in evidence, and would be the only copy, and that any further copy—that any copies—would be made from that blue print, which was the original.

Q. Going back to the draftsman's work, he made the one blue print under your instructions and delivered that to you? A. Yes.

Q. And after examination by yourself and Captain Logan approved that, you signed it? A. Yes.

Q. And you gave it to Captain Logan to procure Mr. Walker's signature if it checked up with his notes. Did you ever see that blue print any more from the time it was signed to the taking of this testimony? A. I saw it for the first time after signing it on Monday of this week. Mr. Hayden showed it to me this week.

Q. Did you know what became of it? A. It went to Mr. Hayden.

Q. By whom? A. I do not recall whether I left it with Mr. Hayden or whether Captain Logan did; either one of us did.

Q. What became of the tracing? A. The tracing? I left it with Mr. Hayden.

Q. With whom? A. Mr. Hayden.

Q. When? A. Before I left Tacoma.

Q. Then before you left you took the original tracing from the draftsman—— A. Yes.

Q. And the only blue print in existence, and delivered both, or caused them both to be delivered, to Mr. Hayden? A. That is right.

Q. And you did not understand that the other parties in interest were either entitled to or expected any copy of the blue print or evidence of these measurements? A. I thought that if they were either entitled to it or expected it, Mr. Hayden, who had instructed me to have these made, was the party to deliver to whoever should have it a copy. I personally didn't receive a copy.

Q. But I understand from you there was only one blue print made? A. That is right.

Q. Was there ever any other so far as you know? A. Not to my knowledge. My instructions were to make one blue print, and the dimensions were only put on that blue print and were not put on the tracing.

Q. The tracing, however, shows the point at which these measurements were taken by you and Mr. Walker? A. Most of them, yes.

Q. It shows all that appear on the blue print, of course? A. Yes.

Q. I now direct your attention to that tracing, Libellant's X¹⁴, and call your attention to the line of measurement reading as follows, "48' 6 $\frac{7}{8}$ " from inside to inside of bulwark rail." You furnished the draftsman before he made this tracing with the figures of that measurement and the location of the measurement? A. No. He got that measurement himself. That tracing was complete as it is shown now when examined by me at the first time.

Q. I understand that; but isn't this measurement, 48' 6 $\frac{7}{8}$ " inside of bulwark rail, one of the measure-

ments made by you and Mr. Walker? A. I don't think it is. I believe our measurement was taken to the inside of the pipe. There was a pipe on one of the rails, and we took it to that pipe. I would not be sure without looking at the two drawings whether that is one of the measurements or not—whether that was the actual figures that we found it or not.

Q. On this tracing there is a line showing a measurement between blocks on the forward ends of the screens? A. Yes.

Q. That is a part of the original tracing? A. Yes.

Q. That line with those descriptive words on it was made by the draftsman from information furnished by you, wasn't it? A. No. That line was made by the draftsman as he, I imagine, understood that we were going to take—in taking the dimensions of the light screen we were going to take the dimensions between the forward blocks, which we did not do.

Q. The draftsman was not present when you took these measurements? A. No, he was not present.

Q. How did he get any information to make these lines showing points at which the measurements were supposed to have been made, unless you gave it to him? A. I suppose in the same way as he got all the rest of the information. Presumably he knew what we wanted to get at was the position of the light screens.

Q. Mr. Jack, the purpose of these measurements was to get the distances between certain points? A. Yes.

Q. Which would be certified by you and Mr. Walker? A. That is right.

Q. And they were to be shown by a tracing in a blue print? A. Yes.

Q. Now, do you mean to say that the tracing was made by the draftsman without any information from you or anybody else as to points between which you and Mr. Walker made your measurements? If so, why did you ever make your measurements? A. Well, I presume—in fact, I know—that I discussed in a general way with the draftsman the directions that we had taken—where we were taking dimensions from—and I think prior to the dimensions taken at all I had given

him instructions as to how I wanted these taken. In fact, I did give him instructions on the Saturday prior to the measurements. The measurements were taken on Monday.

Q. Then you did give him the instructions to make a line between the blocks on the forward end of the screens? A. Yes, at that time.

Q. The figure showing distance being left blank on the tracing? A. Yes. I at that time expected that the measurement would be taken from the forward end of the blocks.

Q. This was several days, as you said a while ago, after the measurements by you and Mr. Walker had been taken? A. Yes.

Q. You did not expect to go there alone in Mr. Walker's absence and take these measurements again, did you? A. No. But when I gave these instructions about what kind of drawings we wanted, it was the Saturday before the measurements were taken, and I roughly outlined to him what we wanted.

Q. Do you mean that this tracing and the blue print which you and Mr. Walker have certified does not show the lines at the points you and Mr. Walker measured? A. Some of it does and some of it does not.

Q. Then how were you able to take them up with the notes of your measurements, if the lines were at different places? A. Well, on the forward deck we checked up to show approximately the position of the inside of the rail at the different points; and the other measurements—in other words, the draftsman got instructions to make that as an outline drawing, so that it could be dimensioned afterwards; that that drawing was to be a sketch as found from measurements taken by him.

Q. Now, when you and Mr. Logan received this tracing from the draftsman, you, of course, saw that he had shown a line between the forward ends or between the blocks on the forward end of the screens, didn't you? A. Yes.

Q. And you instructed him to have the blue print made accordingly? A. Yes. But we saw that tracing in the B. C. Marine office and went over it in a general

way, and I instructed him to have a blue print made, and I do not think I had my notes with me the day that we looked at the tracing.

Q. After the blue print was made you and Mr. Logan again examined that, didn't you? A. Yes.

Q. And you found that the blue print showed same measurement between the blocks and the forward end of the screen? A. Yes.

Q. And you yourself filled in the figures 46' and 10" as the distance between those two points? A. No, I did not.

Q. Who did? A. The draftsman may have done it.

Q. And he did it under your directions? A. Yes. I didn't put any figures on that tracing other than some pencil notes.

Q. At the time this blue print was presented to you by the draftsman there was no one in Victoria who had notes of these measurements except you? A. That is right.

Q. If that is his handwriting, didn't he get that figure from you? A. He must have.

Q. Now will you please turn to your notes and show whether they correspond with this blue print as to the distance between the blocks on the forward end of the screen?

(The envelope in evidence is handed to the witness.)

Witness—I have no record of any measurement being taken between the blocks at the forward end of the screens, the only measurement across there being 46' 10" inside of the iron lamp holder, and that measurement was penciled on the blue print by me as well as some other measurements, most of the other measurements being penciled in by the draftsman; and all the measurements being afterwards inked in by him, with the exception of the measurement across the forward end of the bridge, which, for some reason, seems never to have been inked in.

Q. Have you any notes of any measurements taken by you and Mr. Walker that show the distance between

the center of the frames of the starboard and port lights? A. No.

Q. And that was the express purpose for which these measurements were taken, wasn't it? A. Yes.

Q. This screen was built in the usual and customary way and in accordance with the requirements of the regulations, was it not? A. Yes.

Q. What is the purpose of this block on the forward end of the light screen? A. The purpose of the block on the forward end of the light screen is to limit the range of light; that is, to have the light show dead ahead.

Q. And the outer edge of that block on the forward end of the screen is directly in line of the center of the flame of the light? A. I am not sure whether that is directly in line with the center of the flame of the light or with the inboard edge of the wick. I am inclined to think it is the latter.

Q. It is practically on a direct line with the light itself? A. It is in direct line with the light itself, that is, some part of the light. I am not sure of which part of the light.

Q. The distance between the outer edges of the blocks on the forward screen would be the distance between the port and starboard lights? A. The distance between some part of the port and starboard light.

Q. What is the reason you did not take that measurement? You say you did not take it. What is the reason you did not? A. Well, I may say I thought you were going to take it, as I have already explained. I thought that that was the measurement that was going to be taken; and in course of discussion on the bridge they called for the lamps and found that the lamps were in Tacoma; and Mr. Hayden, I think it was, suggested that, as the lamps were there, the best way to take the measurements would be to take them from the inside of the screen—of the iron lamp holder; and that the actual distance to the center of the lights, or the center of the wick, could be measured from the lamps in Tacoma. I may say that I expected that that measurement would be made by us all and would become part of the blue print.

Q. Then why did you proceed to make the tracing and blue print, and certify it and deliver it, without making that very measurement, which was the very thing they wished? A. Because the lamps were already in evidence, and I understood could be measured in course and at the same time whenever everybody was present.

Q. The lamps were where? A. I don't know. They were in Tacoma some place. They were—I understood they had been kept as evidence.

Q. But, Mr. Jack, if you were going to make the further measurement of the lamps themselves before you completed your work, which was intended to ascertain the distance between these two lights, why did you complete your work with your tracing and your blue print and submit it to Mr. Logan and Mr. Walker and get their signatures, and deliver it to Mr. Hayden—send your boat to sea—and you come back to New York, without ever doing it? A. Because I thought that as long as the distance between these iron brackets was known, the lamps could be set in their respective positions one to the other, and the actual distance between the lamps could be easily seen or measured.

Q. After the ship had gone to sea? A. Whenever the point came up for discussion at any time.

Q. If the ship had gone to sea how could you measure the lamps? A. I understood the lamps were going to be retained.

Q. Didn't you understand that the whole purpose of this was to get you and Mr. Walker to agree on these distances, so that we would have no further controversy about it? A. No. I understood that the idea was that these lamps were retained and would be retained, and the measurements were taken with a view of setting these lamps in their respective positions outside of the ship altogether. They could be set in a court room, or any other place, actually in the position that they were in, and the distance apart; and I understood that the lamps were going to be left ashore and that new lamps were to be furnished the vessel.

Q. You mean that you could go and get those lamps now without the ship being present, and you could

tell what the distance between those two lights was?
A. Yes.

Q. How would you do it? You have not got the brackets here. A. No. But you have got the position. There is a socket at the back of the lamps, which ships right on to these iron lamp holders; and you have the distance between these iron lamp holders. You set one lamp down here (indicating) and measure from this socket, and place the other lamp at the distance that the two sockets are apart, and you have the distance of your lamps.

Q. Mr. Jack, don't you remember that you had a good deal of discussion—you and Mr. Walker—about getting at the distance between these two lights, and that you did first take a measurement from these brackets that you have mentioned? A. Yes.

Q. And found the lamps were not there, and you could not complete your work; and that Mr. Walker suggested that it was foolish to take the measurement in that way; that a measurement from the outer edge of the block on the forward screens would give you the information that you wanted; and that you took that measurement and put it on your tracing and had a blue print— A. No. I remember some discussion about taking the measurement from the blocks, or between the blocks, and I remember thinking that that would be a reasonable way to do it. But such a measurement was never taken in my presence.

Q. Why not? A. Because it was stated—Mr. Hayden stated that the information that he wanted was the position between the iron holders, so that the actual position of the lamps could be defined. Another thing was that to get the dimensions between the blocks we found would be rather difficult, as we could not get any direct line between the two blocks. That is to say, that at the side of the bridge it was impossible to drop a line directly between one block and the other. The distance to the outer end of the bridge was about 11 or 12 inches. I think I have testified to it being 11 inches. And to get this measurement would require to extend—that is, the measurement would be required to be taken right outside of the bridge, clear of it altogether, and it would

be a very difficult place to take that measurement; and you would have to extend the ends—that is, the blocks—the blocks would have to be extended out 12 or 14 inches before that line could be taken.

Q. You did that in a great many of these measurements that you took, did you not? A. No. In none of them. They were all taken to a direct point; that is, they were taken in the direct line.

Q. Take the measurement that appears on the blue print adjoining and immediately above the measurement between the forward end of the screens. Was the same obstruction existing to that measurement that there would have been to the forward end of the light screen?

A. That is a measurement across the bulwarks.

Q. Yes? A. Between the bulwark rails is the measurement of this.

Q. I understand that. A. There were no obstructions there; the deck is clear, and you can stretch a line right across.

Q. You do not mean to say that you and Mr. Walker could not have taken the measurement between the blocks on the forward end of these screens and taken it accurately? A. I do not mean to say that for a minute; but I do mean to say that it would have been between those and not an extended line; that is, we could not have had a direct line unless we had made holes in the side of the bridge.

Q. Then you could not have a—— A. We couldn't have it complete——

Q. —direct line across? A. No.

Q. But you could have had an accurate measurement without that? A. Yes, we could have had an accurate measurement.

Q. Have you any way of computing the distance between the outer edges of the blocks on the forward end of the screens? A. I don't quite follow that question.

Question repeated. A. No.

Q. Is it more or less than 46 feet 10 inches? A. More than 46 feet 10 inches.

Q. How much more do you think? A. Well, I estimate that these irons—the iron lamp holders—were

about $1\frac{1}{2}$ inch out from the inside boarding of the screen. That would make 3 inches in the two. Deducting that from 46 feet 10 gives 46 feet 7. The depth of the blocks at the forward end of the screen was $4\frac{1}{2}$ inches, making a total of 9 inches; and adding this to 46 feet 7 would give 47 feet 4 inches.

Q. The point on the brackets from which you claim you made this measurement of 46 feet 10 inches is how far from the inside board of the light screen? A. About an inch and a half.

Q. It is an inch and a half outward from? A. It extends out about an inch and a half from the inboard board of the light screen.

Q. What is the thickness of the board of the light screen? A. I should think about an inch or an inch and an eighth.

Q. Then the point from which you claim you took this measurement was about $2\frac{1}{2}$ or a fraction over $2\frac{1}{2}$ inches outside of the inside of the screen? A. Yes.

Q. The inner side of the screen? A. Yes.

Q. The measurement which your blue print shows gives the distance from the inner side of the screen to the end of this block as $4\frac{1}{2}$ inches, doesn't it? A. Yes.

Q. So that, according to your statement, the outer edge of this block on the forward end of the screen would be approximately 2 inches further out than the point from which you took your measurements? A. No. Approximately 3 inches.

Q. The measurement of $4\frac{1}{2}$ inches is from the inside of the screen to the outer edge of that block? It is the width of the forward block? A. No. It is from the outboard side of the screen. $4\frac{1}{2}$ inches as the depth of the block, and then behind that there is the thickness of the screen board.

Q. Look at your blue print and see if the drawing there does not represent the $4\frac{1}{2}$ inches as including the thickness of the screen board? A. No, it does not. There are two dotted lines, one extending up, showing the outboard side of the screen board, and the other showing the outboard side of the block.

Q. Then, according to your statement now, the point from which you took the 46 feet 10 inch measure-

ment was 3 inches in from the outer edge of the forward blocks on the screens? A. Yes, on each side.

Q. So that the distance between the outer edge of the blocks on the forward light screens—one the forward end of the light screens—would be 46 feet 10 inches plus 6 inches? A. That is right—or 47 feet 4 inches.

Q. 47 feet 4 inches; and that is as near as you can approximate the actual distance between the lights, as you record those measurements? A. The actual distance between the blocks, yes.

Q. Between the lights? A. Between the line of the light at the blocks.

Q. Under the regulations the light would necessarily be either on a line with the outer edge of this block or a little inward from it, would it not—in order to prevent—in other words, if it was a little out, it would cause the lights to cross in front of the bow? A. Yes. These lights should show dead ahead.

Q. So that the distance between the outer edges of these blocks at the forward end of the screen is as great as, if not a little greater than, the distance between the lights themselves? A. I don't know at what point the lights ahead, if any, would come together. I don't know whether they were extended far enough that they would eventually cross each other. But I imagine that they would not; that they would show dead ahead and they would not come together at all.

Q. When did you first make the discovery that this tracing and the blue print, which you had certified, was in error? A. By receiving a telegram from Mr. Hayden, asking me to look at my notes and state what this measurement was, and then by receiving a letter from him saying that his notes showed that an error had been made, or—

Q. I don't want you to state what he said unless you want to produce his letter.

MR. HAYDEN: We have no objection to produce the letter if you want to see it.

MR. BOGLE: I did not ask for it. I don't know that I object to it or not unless I see it. I do not call for it. I do not want him to state what is in there. I do not call for it.

MR. HAYDEN: Have you got that cable and letter, Mr. Jack? — I will show it to you, Judge Bogle. Let the record show that the message that Mr. Jack has referred to and the letter are shown to Judge Bogle.

The letter is handed to Mr. Bogle, and he is also shown a copy of Mr. Jack's reply.

Q. What was the date when you received the first information that there was probably a mistake in the blue print? A. Referring to this telegram which I received from Mr. Hayden, or Huffer, Hayden & Hamilton, which is dated April 15th, I must have got it directly after that—within a day or two.

Q. That was about a month after the Strathalbyn had gone to sea? A. Yes.

Q. Mr Jack, you have mentioned that you put some pencil memoranda on this blue print? A. Yes.

Q. When was it placed there? A. It was placed there before the tracing left—before it was inked in; that is, in going over it with the draftsman in the B. C. Marine yard and in checking it up before the dimensions were put in, I either gave him the dimensions from my notes or penciled them in, and he afterwards inked them in.

Q. The pencil writing to which you refer is on the blue print in the space between the drawing of the blocks, is it not? (Blue print shown witness.) A. Yes.

Q. And is so very indistinct that it is almost impossible to read it, is it not? A. It is very difficult to read it.

Q. Can you identify it as your handwriting? A. I can identify it as my handwriting.

Q. And you put it on before the ink writing was put on this blue print? A. Yes.

Q. And, of course, it was there before you signed the blue print? A. It was there before I signed it.

Q. How did you come to sign the blue print, then, Mr. Jack, without having it corrected, if your attention was called to the fact that this measurement was not shown on the blue print? A. That I can't understand—how I come to sign that.

Q. Can you explain how it is that, if you had in

mind the fact that this measurement of 46 feet 10 inches was in between some point in the iron brackets, you had approved the blue print showing that measurement to be between the blocks on the fore end of the screens? A. The only explanation I can give of that is that this blue print was prepared when all the work was finishing up and bills being checked and a great deal to attend to, and that the checking did not receive the attention that it should have; and the dimensions were apparently all checked over, and 46 feet 10 was found in accordance with a dimension that I had, and that apparently I had not looked to see where that was between.

Q. You and Mr. Logan both checked this blue print? A. We checked it together.

Q. And compared it with your notes? A. Yes.

Q. And with his notes, if he took any? A. Yes; but I don't think he had any notes at that time; I don't think he had any notes when we checked that.

Q. In giving your testimony as to these measurements taken by you and Mr. Walker, you read from the original notes made by you? A. I did.

Q. The memorandum being Libellant's Identification X¹³. You have no independent recollection of these measurements, aside from your notes, have you? A. You mean of what the actual measurements were?

Q. Yes. A. Well, I have a recollection—very distinct recollection—of the depth of the wood blocks of 4½ inches; but the other dimensions, while I at present have a recollection of them more from these notes and from the discussions, still I have not got any—

Q. Have you any distinct, independent recollection that the measurement of the depth of the block was from the inside of the screen board? A. Yes.

Q. And did not include the width of the screen board? A. No.

Q. Do you remember that, outside of any notes or anything on the blue print and drawing? A. Yes. I remember it, because I remember at the time some discussion as to what the relative position would be of the stanchions, the wood stanchions, and our first measurement forward of the bridge was, if I remember right,

48 feet something; and somebody made a note—I don't know—perhaps two or three made a note—from the measurement we had taken and added the thickness of the two blocks; that was 9 inches; and then said, roughly, that the relative position of the inside of the rail and the line of the light would be—I think it was around 6 inches; that is, that the inside of the rail was 6 inches outside of the line of the light.

Q. So you had in mind, at this very time, the question as to whether that light was inside of this forward stanchion? A. Yes.

Q. Well, now, if the measurement of that block of $4\frac{1}{2}$ inches does not include the thickness of the screen board, there was no measurement that you could add to the $4\frac{1}{2}$ inches, or the width of the blocks on each side, 9 inches, and get a correct result, was there? A. No.

Q. Because you have got a thickness of the screen board there that you have not shown to be in those things, if your idea of the thickness of the screen blocks is correct? A. I don't quite follow that. The thickness of the screen board was immaterial, and it would not have any effect on any of these measurements at all, the only measurement being taken outside of the screen board.

Q. Were you on the Strathalbyn while she was loaded and had on a full deck load? A. No.

Q. Were the stanchions on deck when you were there? A. I think some of the stanchions were up, yes.

Q. Isn't it the fact, Mr. Jack, that, from your own observations and observations outside of these measurements that you and Mr. Walker took, those lights were on the inside of the forward stanchion? A. On the inside of the——

Q. That the distance between the lights was less than the distance between the outer side of the stanchion forward of the line of the lights? A. No. When I saw the stanchion that was when part of the deck cargo was on. I was on the forecastle head, and especially looked along the line of the stanchion to see how that looked, and it was clear then—quite clear. That was on account of the stanchion having a tumble home. If

the stanchions did not have a tumble home it might have been different.

Q. It might have been obscured, wouldn't it? A. It possibly would.

Q. Is that the reason you did not take these measurements from the forward end of these blocks—because it would show that fact? A. No, absolutely not.

Q. Was there any effort on your part to avoid taking and showing on your reports that were made by Mr. Walker and yourself a measurement that would give the exact distance between those lights? A. Absolutely not.

Q. Are all these figures and writing in ink on this blue print in the handwriting of the draftsman? A. Yes, I think they are. Let me have that blue print. (Witness looks at blue print.) Yes.

Q. Were they entered in your presence? A. No. To the best of my recollection they were penciled in in my presence and inked in afterwards.

Q. Did you read off the figures to him from your notes and he put them down in your presence? A. Yes; and then on receipt of the blue print, I think the checking was really done by pencil notes, that is, the checking was done at the time the pencil notes were put on the blue print; and when the blue print came to us afterwards we had already checked it with the pencil notes, and signed it without much bother of checking it.

Q. Didn't you compare it with your notes when it came back to you for your signature? Didn't you state a while ago that you and Mr. Logan did? A. Apparently it has not been checked.

Q. Don't you recollect that you and Captain Logan did check it up and compare it with your notes at the time that you and he signed it? A. I recollect that the time that Captain Logan and I checked it up was when there were none of these ink dimensions on it, and that we had pencil notes of the actual dimensions put in from the drawing in pencil, and that afterwards there was not much checking done; that is, after the inking in had been done.

Q. Did you ever furnish Captain Logan with a

copy of your notes of these measurements? A. No, not to my recollection.

Q. Did Captain Logan ever call to your attention the fact that Mr. Walker or the interests representing the *Virginian* ought to have, or were entitled to have, one of these blue prints? A. He may and may not. I do not recall the conversation.

Q. Did you tell him, when you gave him that blue print that was signed and for which he obtained Mr. Walker's signature, that the copies belonging to Mr. Walker or the interests he represented would be furnished later? A. I do not recall saying anything of that kind. In fact, I had no right to. The blue print was prepared at the request of Mr. Hayden, and it was turned over to him.

Q. All I want to get at, Mr. Jack, is whether the withholding of a copy from Mr. Walker, or the interests representing the *Virginian*, was a mere oversight or whether it was intentional. A. Oh, it was an absolute oversight as far as I am concerned, because both the blue print, which was to be considered the original document, and the tracing from which further blue prints could be made and could be inked in with notes to make them a true copy of the blue print, were in the hands of Mr. Hayden and he could furnish these; I presumed I could get one myself and the other interests could get one.

Q. There has been introduced in evidence a letter from Captain Logan to Mr. Walker, which I have not present before me at this time, but which states in substance, as I now recall it, that either you or the draftsman told him that you had taken the original tracing and the memoranda that you had furnished the draftsman from which he had made the tracing, and carried them back East. Did you ever give either of them any ground to understand that you were bringing those documents away East? A. These were tracings of the blue prints, not referring to this one at all, but to a tracing and notes with reference to that other blue print, Exhibit X¹⁵—Exhibit X¹⁵ I think it is—and these other sketches here which were the original sketches from which the vessel was repaired.

Q. Did you ever meet Mr. Walker after these measurements were taken? A. Never; at least, I do not recall having met Mr. Walker after that.

Q. Did Captain Logan, after he had procured Mr. Walker's signature to this blue print, inform you that Mr. Walker requested that he be furnished with his copy right away? A. I think probably he did.

Q. Did you take any action to furnish it? A. I think I told Mr. Hayden that—I don't remember whether I did tell Mr. Hayden or not; but I thought that he would get it from Mr. Hayden, as he was the only one that had the tracing and blue print and was in a position to furnish it.

Q. But Mr. Walker had left the matter with you as the joint surveyor with him. Didn't you feel there was an obligation there on you to see he got his copy, as he had entrusted you with the—— A. I couldn't furnish him with what I did not have, because both the tracing and the blue print had left my hands.

Q. You had no suspicion at that time that there was any error in this blue print? A. Absolutely none. I thought that if there had been any error Mr. Walker would have noticed.

Q. And you do not claim there is any error in it now, except that you say that that 46 feet 10 measurement is between some point and brackets instead of between blocks and screens? A. That is right. Between the only cross measurement that we took between the port and starboard light screens.

Q. And you further state that the real distance between the outer edges of the blocks and the forward end of the screen is 47 feet 4 inches instead of 46 feet 10 inches? A. Yes.

Q. Mr. Jack, at the time these blue prints were delivered to you by the draftsman and surrendered by you to Mr. Hayden, you recognized that these measurements showed that the lights on that vessel, the Strathalbyn, would be obscured by the deck load she was carrying if the forward stanchion stood straight and did not tumble in—tumble home—did you not? A. Yes. That is not the forward stanchion. You mean the stanchion just immediately forward of the bridge?

Q. Yes? A. Yes.

REDIRECT:

Q. Did you have any communication with anyone, or from anyone, to indicate to you that there was any error in this measurement prior to your receipt of the telegram from me? A. No.

Q. Is that absolutely the first time that you had any indication in any way that there was anything wrong? A. Absolutely. It came as a great surprise to me.

Q. Mr. Bogle included in a question that he asked you just a minute ago the idea that you had delivered to me the blue print. Did you deliver the blue print to me? A. Did I deliver the blue print to you?

Q. Yes. A. I either delivered it personally—that is, I delivered it personally——

Q. To me? A. Yes, or to your office.

Q. Do you remember that? A. Yes. Yes, I am confident of that—that I delivered it to you.

Q. Are you confident you delivered the tracing to me with the blue print? A. I either delivered it to you or caused it to be delivered to you.

Q. I mean did you personally do it? A. I do not recall whether I did or not.

Q. Did you bring it to the office? A. I don't remember.

Q. Did you bring the blue print to the office? A. Yes. I think I probably had the tracing with the blue print and left both together.

Q. In taking the measurement across between the lights where you got 46 feet 10 inches, did those measurements include the thickness of the inboard board of the screen—the light screen? A. Yes.

Q. Which way from the inboard board of the light screen did the brackets extend? A. The brackets extended outboard from the inboard board of the light screen.

Q. Mr. Jack, if the Virginian were approaching the Strathalbyn from a direction off the Strathalbyn's port bow of $3\frac{1}{2}$ degrees, or approximately that, and the Strathalbyn had a list of 6 degrees to starboard, at what point of the stem of the Strathalbyn would the contact first come? A. I have already testified that the stem

of the *Virginian*, in my opinion, struck the stem of the *Strathalbyn* about the 31-foot water-mark—draft mark.

Q. Would that be the first place that it would strike the stem, or would it strike the stem higher up before that, taking into consideration a list of 6 degrees, in approaching as you have indicated? A. Well, it would strike the stem higher up first. Let me see. In which direction was she listed?

Q. If she was listed to starboard. A. Yes, that would be the first point at which it would.

Q. Where? A. That is, taking it for granted that the stem of the *Virginian* is practically perpendicular.

Q. Where would it be first struck? A. About the 31-foot mark.

Q. Now, with the *Strathalbyn* loaded with a heavy deck load, and her holds full of lumber, and with a list in her natural position of 6 degrees, a blow striking her on her stem at an angle of say $3\frac{1}{2}$ points or thereabouts off her port bow, what would be your opinion as to whether or not it would have a tendency to list over the *Strathalbyn*? A. Yes, I think that it would most undoubtedly exaggerate the list or increase the list that she had prior to the striking.

Q. In connection with these measurements across the bridge and the tracing, state whether or not the draftsman made his own measurements across the bridge, and made the tracing himself from those measurements independent of any measurements from you? A. Yes. The tracing was made entirely from his own measurements.

Q. What, in your opinion, would have been the direction of the *Virginian's* stem into the *Strathalbyn*, had the *Virginian* struck the *Strathalbyn* coming from a direction almost directly ahead of the *Strathalbyn*? A. That is, you mean striking at the 31-foot mark?

Q. Yes. A. Striking at the 31-foot mark, I think that the stem of the *Virginian*—if the stem of the *Virginian* had proceeded into the *Strathalbyn*, the upper part of the stem, that is, a foot or two above the 31-foot mark—would have gone into the port side of the *Strathalbyn*; and the lower part of the stem, that is, below the

Strathalbyn's 31-foot mark, the lower part of the Virginian's stem, would have gone into the starboard side of the Strathalbyn, and the stem of the Strathalbyn would only have been damaged or broken away within a few feet above and below the 31-foot mark by the stem of the Virginian, although it might have been damaged later by the side plating of the Virginian; but in this case it is more likely that the stem of the Strathalbyn would pierce the side plating of the Virginian.

Q. Taking a direction from the stem of the Strathalbyn, had the Virginian struck her at practically head-on courses, what would have been the direction of the cut into the Strathalbyn? A. The direction of the cut, I should say, that is, the direction of the cut that would have been made by the stem of the Virginian, would be through the 31-foot draft mark on the stem of the Strathalbyn, and through the forecastle deck, or in line with the forecastle deck, on the Strathalbyn, port side about 17 feet; that is, about 17 feet above the 31-foot mark. The Strathalbyn having a list of 6 degrees, would be about the——

Q. I do not believe you get my question quite. I want to know, if the vessels were approaching head on and the Virginian entered the Strathalbyn, the direction that the Virginian would have proceeded into the Strathalbyn had they been meeting right straight head on, under the circumstances in this case? A. She would have proceeded directly into the Strathalbyn; but what I was trying to give was about the course that the stem at this point would have cut into the different parts of the Strathalbyn.

Q. I see. A. In other words, the head of the stem would have cut in some distance on the port bow, and the foot of the stem, that is, below the 31-foot mark, would have probably cut in on the starboard side of the Strathalbyn's stem. I should roughly estimate that the distance between the head of the Strathalbyn's stem and a similar height on the Virginian's stem striking end on, would be 18 inches to 2 feet. But the stem in this case would have cut in considerably further along, measuring along the plating, than this; probably cutting in

abaft the first frame on the port side at the head, or in line with the forecandle deck.

RECROSS:

Q. Mr. Jack, if this collision had occurred practically head on, with the Virginian just slightly, say one-half of one point, off the port bow of the Strathalbyn, and the bows of the two vessels below the 29-foot line passed starboard to starboard, and the Virginian had been thereby sheered to her port, it would have made a wound similar to the one made in this collision? A. No.

Q. Just yes or no. A. No.

Filed Feb. 11, 1913.)

NO. —. STIPULATION.

IT IS HEREBY STIPULATED AND AGREED, by and between the parties hereto, by their respective attorneys, that the deposition of MAGNUS L. STRAND, a witness on behalf of Libelant, may be taken before Peter A. Kimple, a Notary Public, at room 613 Central Building, Seattle, Washington, at the hour of 9:30 o'clock a. m. on March 21st, 1913, and may be transcribed and read in evidence in behalf of the libelant with the same effect as though said deposition had been taken before the United States Commissioner to whom the taking of testimony in this cause was referred.

The signature of the witness to the testimony as transcribed is hereby waived, and all other objections as to the time and manner of taking this deposition are hereby waived.

HUFFER & HAYDEN,

Proctors for Libelant.

BOGLE, GRAVES, MERRITT & BOGLE,

Proctors for Respondent, Claimant and Cross-Libelant.

DEPOSITION F MAGNUS L. STRAND.

BE IT REMEMBERED, that on March 21st, 1913, at room No. 613 Central Building, Seattle, Washington, before me, Peter A. Kimple, a Notary Public in and for the State of Washington, appeared Mr. W. H. Hayden (of Messrs. Huffer, Hayden & Hamilton), proctor for libelant, and Mr. Lawrence Bogle (of Messrs. Bogle, Graves, Merritt & Bogle), proctor for

respondent, claimant and cross-libelant, in pursuance of the foregoing stipulation;

WHEREUPON the following proceedings were had:

MAGNUS L. STRAND, produced as a witness on behalf of LIBELANT, having been first duly sworn by the Notary to tell the truth, the whole truth and nothing but the truth, testified as follows:

Q. (Mr. Hayden). Captain, what is your name?

A. My name is Magnus L. Strand.

Q. What has been your experience in connection with seafaring matters?

A. Oh, I have been sailing for about between eighteen and twenty years, from the deck-boy and up to captain and mate, sailing for—chief officer for about six years, and second officer for about four years.

Q. What licenses have you received?

A. I got unlimited license for captain, from Norway, and I got unlimited license as chief officer, United States.

Q. And what is your business now?

A. I am first officer of the whaling steamer "Star No. 3."

Q. What was your business in January, 1912?

A. I was taking care of the Tacoma Yacht Club, the yachts of the Yacht Club.

Q. And where is the Tacoma Yacht Club located?

A. It is right across from the Commercial Dock.

Q. In Tacoma?

A. In Tacoma, on the tide flats there.

Q. How old are you, captain?

A. I am thirty-six years old.

Q. Did you observe the steamer "Strathalbyn" on the 12th of January, 1912, as she was about ready to go to sea? A. Yes, sir.

Q. And where did you observe her, where was she when you saw her?

A. She was moving over to her anchorage, or else to the city buoy there, around that direction.

Q. And when was it that you saw her making that move? A. In the afternoon.

Q. And did you see her subsequent to that—after that?

A. Yes. I seen her about when she was ready to leave the harbor.

Q. And did you see her after that?

A. Not after she left the harbor, no.

Q. Did you see her the next day?

A. Yes, I seen her the next day, early in the morning.

Q. Did you observe the way she was loaded?

A. Yes, I seen her cargo—deck cargo.

Q. Did you observe any lights aboard of her?

A. Yes, sir, I seen all her running lights.

Q. Now, in your own way, captain, commencing with the afternoon when you saw her making her move, just tell what you observed in connection with the lights and movements of the steamer and whether or not the lights were visible and whether there were any obstructions in the way of the lights; just in your own way tell us just what you saw and what you were doing?

A. I was putting out the lights on the yachts, and was always looking around; and seeing the steamer "Strathalbyn" and pay attention to it—her cargo and where she went to anchor, and after through with the yachts I went ashore over to the wharf, and I was going up town for a while, but on my way going up there I happened to meet a longshoreman, looking for work I suppose.

Q. Where was that you met the longshoreman?

A. Up on the bridge.

Q. What bridge?

A. Commercial bridge. And he asked me if that boat was coming in, and I told him "No," that is "The boat is ready to leave, because she is loaded with lumber and"—

MR. LAWRENCE BOGLE: We object to any conversation he may have had with this longshoreman.

Q. (Mr. Hayden.) Well, go right ahead and tell what took place.

MR. HAYDEN: I think it is a part of the res gestae.

A. About the longshoreman?

Q. (Mr. Hayden.) Yes, go right ahead.

Q. (Mr. Lawrence Bogle.) When was this conversation? A. It on the bridge.

Q. (Mr. Lawrence Bogle.) At what time?

Q. (Mr. Hayden.) At what time, captain?

A. About six o'clock.

Q. (Mr. Lawrence Bogle.) The vessel had not left the harbor? A. No, no.

MR. LAWRENCE BOGLE: You think that is a part of the *res gestae*, do you?

Q. (Mr. Hayden.) Go ahead, captain.

MR. LAWRENCE BOGLE: We object to all this testimony as clearly incompetent.

Q. (Mr. Hayden.) All right, captain, go right ahead. You had a talk with the longshoreman. Now go ahead.

A. And I told him, "You can see she is loaded and loaded with lumber, and she got her side lights out and top light out and ready to leave."

MR. LAWRENCE BOGLE: We object to all this and ask that it be stricken.

Q. (Mr. Hayden.) Captain, instead of telling what you said to the longshoreman, tell what you saw yourself about the side lights and the upper light, just tell what you saw.

A. Saw both side lights and her top light—mast-head light.

Q. (Mr. Lawrence Bogle.) Saw both side lights?

A. Yes, sir.

Q. (Mr. Lawrence Bogle.) And what?

A. Top light.

Q. (Mr. Hayden.) You call it "top light." What other name do you give to the top light?

A. Well, I don't see any other special name for it—a seagoing man.

Q. Do you mean the masthead light?

A. Masthead light.

MR. LAWRENCE BOGLE: Oh, I object to leading the witness.

Q. (Mr. Hayden.) Go ahead. How did those lights appear?

A. And I seen both side lights at the same time,

boat was swinging once in a while and mostly I seen the green light, and they appeared to me to be ordinary good side lights.

Q. How did the masthead light appear to you?

A. Just as good as the rest of them—side lights.

Q. How far away would you say the “Strathalbyn” was from the Commercial bridge where you were standing?

A. Oh, about a little bit more probably than a quarter of a mile.

Q. About how far above the dock was the Eleventh Street bridge where you were standing—I mean the Commercial Dock bridge where you were standing?

A. Oh, I suppose about 25 feet, or between 20 and 25 feet.

Q. Do you know how the tide was that night?

A. I think it was about low tide.

Q. How much would the tide be below—the surface of the water be below the dock?

A. Well, below—low water—oh, somewheres around 15 or 20 feet.

Q. Now, captain, will you describe how the vessel was hanging and swinging, if she was swinging at all, just describe that?

A. Yes, she was swinging more or less, just as the wind appeared; sometimes a little bit stronger, you see, and sometimes dying down again.

Q. And her bow was pointing which way?

A. Her bow was pointing directly on the place where I was standing, most of the time.

Q. How would you say the side lights appeared to be burning compared with the ordinary lights of vessels?

A. I could not see any difference from an ordinary good light—good side lights and her side lights.

Q. And the same question with respect to the masthead light?

A. Yes. Yes, sir, all the lights.

Q. How long were you standing on the Commercial Street bridge observing these lights and the vessel?

A. I was standing there for about a half an hour.

Q. And how did it happen you were standing there for a half an hour?

A. I was talking with a longshoreman and looking at the boats passing around there, and looking after the yachts, because it was blowing more or less and that is why I happened to stay there and watch the harbor.

Q. Did you see these lights more than once while you were standing there?

A. Oh, yes, on and off all the time.

Q. From observing the boat as she was, what would you say or what is your opinion as to whether or not those lights could be seen directly ahead?

MR. LAWRENCE BOGLE: Oh, we object to that. The witness is not qualified.

MR. HAYDEN: Go ahead, captain?

A. You could see them both right ahead, I seen them both at the same time.

Q. And what did that indicate to you?

A. Bow right to me. I could not see anything else.

Q. Do you mean by that that you could see the lights directly ahead of the vessel? A. Yes.

Q. You said you saw the vessel the next morning I understand? A. Yes.

Q. How did that happen?

A. Oh, I seen that it was the same boat that left last night and I seen she was pretty low in the water, for one thing, and I happened to row around and look at her. Of course I was out with my lights for the yachts.

Q. Taking the lights in off of the yachts?

A. In off of the yachts, yes, and I like to go over and see what the trouble was, because I thought it was the same boat. It didn't look exactly the same forward, but I went over and I found out it was the "Strathalbyn"; looked at her; asked questions to the officers, and I left and went home again.

Q. What did you see when you looked at her, captain?

A. I see her bow was stove in and of course I figured what was the trouble and looked her all over. I didn't see any special—I asked a couple of officers if it was——

MR. LAWRENCE BOGLE: (Interrupting) Just a minute. That is clearly incompetent, and we object to any conversation you might have had with any of the officers.

MR. HAYDEN: All right.

MR. LAWRENCE BOGLE: Just tell what you know.

Q. (Mr. Hayden.) Just tell what you know, captain. Cut out that officer talk.

A. All right. By myself I wondered what the trouble was, and I know it was night and——

MR. LAWRENCE BOGLE: (Interrupting) Just tell what you saw. We don't care about your opinion on this.

Q. (Mr. Hayden.) Go ahead in your own way, captain.

A. And I looked at the side-light boards—the screens, and I see she had upper and lower boards and I seen they were all right and I didn't see anything wrong with them, and I didn't look for anything else, and left for the yachts again.

Q. What do you mean when you say you didn't see anything wrong with the light-screen boards?

A. Well, I thought probably if it had been something in the road for not seeing the lights or anything of that kind and I like to have my own opinion about it, when I see anything has happened like that; that is why I looked it over.

Q. You say not in the road. What do you mean by "not in the road," not in the road so that——

A. (Interrupting.) Oh, you see loading deck cargo they are always more or less careless with stanchions and lashings and all those things, and it can happen you don't exactly get it all in line. But that is why I looked at it; I could not see anything wrong that morning.

Q. When you say you could not see anything wrong, what do you mean by just that?

A. I mean there was nothing in the road for the side-lights or masthead lights or top lights to be seen.

Q. And to be seen in what way, captain?

A. Seen in such a way that there is no danger for collision or accident.

Q. What would be the way that there was no danger of collision or accident?

A. Yes, of course if there is anything in the road, in front of the side-lights, to take some parts of the glass away or take probably the whole part of the glass away for not showing right ahead, the lights would be out of line and they would not be in the right position that they have to be.

Q. And what would you say as to their being in the right position, or otherwise?

A. How they should be?

Q. As far as this ship was concerned, whether or not they were in their right position and could be seen ahead?

A. Well, in my judgment I would say the lights were in good position.

Q. When you speak of the lights being in good position, what lights do you refer to?

A. To the whole business, side-lights and top lights and——

Q. (Interrupting.) You have referred now to the upper screen and the lower screen you saw. Do you mean "The whole business" includes both those screens, side-light screens?

A. Both parts, yes, the upper and lower.

Q. Did you notice any difference in the appearance of the stanchions, on the morning after she came in, from what they were on the evening before she left?

A. No. No, I didn't.

Q. While you were observing these lights—the masthead light, did you see it flicker up and down?

A. No.

Q. You say there was quite a little wind blowing?

A. Yes.

Q. Did you notice the side-lights flicker up and down? A. No.

Q. Which side light did you see most while you were standing on the Commercial Street bridge?

A. The green one, starboard light.

Q. The reason you saw the red light was because the wind was swinging the stern of the vessel as she was laying at anchor? A. Yes, swinging.

Q. And on that swing it was possible for you, I understood you to say, to see both of the lights at the same time? A. Yes.

Q. That is, both the red light and the green light?

A. Yes, sir.

Q. At the time you were observing those lights from the Commercial Street bridge, did you see anything about them that raised any of your suspicions of any kind? A. No.

CROSS-EXAMINATION.

Q. (Mr. Lawrence Bogle.) How old are you, captain? A. Thirty-six.

Q. How long did you say you had been going to sea? A. Between eighteen and twenty years.

Q. How long have you been in this country, captain?

A. In this country for about ten years, I guess—eight.

Q. How long have you been living in Tacoma?

A. Living in Tacoma for seven years.

Q. Have you, captain, ever had command of any ship in this country? A. No, not in this country.

Q. Does your license include the inland waters of Puget Sound? A. It includes any waters.

Q. Have you a license for the inland waters of Puget Sound? A. Any water, yes.

Q. Have you a pilot's license? A. What?

Q. Have you a pilot's license?

A. No, no pilot's license.

Q. Your license includes all inland waters, does it? A. Yes, anything at all.

Q. It includes Alaska and any other waters, does it? A. Any waters at all.

Q. That is a good license. What boats have you been employed on, captain, in the waters of Puget Sound?

A. Boats on Puget Sound, I just been in "Star No. 3".

Q. That is the only boat you have ever been on, on Puget Sound? A. On Puget Sound, yes.

Q. That is the only boat that you have been on for ten years, is it? A. For ten years? No.

Q. You said you had been on Puget Sound for ten years, I understood?

A. I have been in and out. I have not been very much out, that is right; been sailing in the schooner, as a sailor.

Q. What vessel were you on prior to "Star No. 3"?

A. Where I was?

Q. Yes, what vessel were you on the last vessel you were on before you were on this vessel?

A. Ordinary vessel, able seaman.

Q. On what ship? A. On the "Ocean Vance".

Q. The "Oceana Vance"? A. Yes, that is it.

Q. When were you on the "Oceana Vance", captain? A. That is first coming out to United States.

Q. I mean how many years ago?

A. Oh, that is about seven years ago.

Q. Then between that time up to the time of this collision you had not been to sea at all, had you, for six or seven years? A. No.

Q. What had you been doing in that time?

A. Mostly sailing on yachts, going on yachts from Tacoma, and when they went out on trips I was along with them and helped them out.

Q. Who owns the "Star No. 3"?

A. The U. S. Whaling Company, Balfour-Guthrie.

Q. Have you been employed ashore in Tacoma during any of this time? A. Yes sir.

Q. In whose employ?

A. I have been working for Danaher Lumber Company.

Q. Is that the only employment you have had ashore? A. And Tacoma Mill Company.

Q. Have you ever been employed by the Foss Launch Company? A. No sir.

Q. (Mr. Hayden) And you were employed by the yacht company—Yacht Club, too, weren't you?

A. Yes, Tacoma Yacht Club.

Q. (Mr. Lawrence Bogle) How far is this Tacoma Yacht Club from the Commercial Dock, captain?

A. From Commercial Dock about—

Q. (Interrupting) Their anchorage ground?

A. The anchorage ground?

Q. Yes.

A. From the Commercial Dock to the anchorage ground?

Q. Yes. A. Oh, that is not very—

Q. (Interrupting) Just how far, captain?

A. Well, about four blocks. How many feet will that be?

Q. It is across the Bay, is it? A. No.

MR. HAYDEN: Four blocks, he said.

A. Four blocks.

MR. HAYDEN: 1200 feet, about.

Q. (Mr. Lawrence Bogle) And how far is that from the Yacht Club to the city buoy where this vessel was anchored?

A. Oh, that is a little bit more than the same distance, I guess.

Q. A little bit more than four blocks? A. Yes.

Q. Captain, when did this vessel move out to the city buoy, what time of the night?

A. Well, I don't remember exactly what hour, around—

Q. (Interrupting) You saw her move out there, did you? A. Yes sir.

Q. Did she have any list at that time?

A. Well, I think she probably had a little bit; I ain't sure of that.

Q. Did you notice whether she had any list or not, captain?

A. Not anything that put in my mind she had.

Q. You noticed no list whatever; is that what I am to understand?

A. Well, of course she had a little bit of a list, I think.

Q. How much list did she have, if she had any?

A. Oh, that is just a few degrees.

Q. Well, state how many. Your recollection of some of these matters is so clear, I want to see how clear it is about others.

A. Well, probably about 15 or 20 degrees.

Q. 15 or 20 degrees. You don't know what time she moved over there? A. No, not exactly.

Q. What time did you put out the lights on the yachts?

A. Oh, I put them out about four or five o'clock.

Q. Well, you put them out at four or five. You can be a little more definite about this, captain.

A. No, I can't either.

Q. You can't do it? A. No.

Q. Between four and five o'clock? A. Yes.

Q. Were there any lights out on the "Strathalbyn" at that time? A. When I was out with the lights?

Q. When you put your lights out?

A. Yes, there was lights.

Q. Her lights were out then? A. No, no.

Q. No lights? A. Not side-lights.

Q. Did she have any lights out?

A. Oh, yes, there was lights out.

Q. What lights did she have out?

A. She had lights in the rooms and all over the boat, that is all.

Q. What lights did she have out—ship's lights?

A. No ship's lights.

Q. What particularly called your attention to this vessel, captain, was she the only ship in the harbor?

A. No, but she is—I was in that position.

Q. What?

A. I was in that position, and all the ships that went out ready to go to sea I paid more or less attention to it, because there was a newspaper friend of mine who generally asked questions, any ships going out, any coming in, and I gave him information pretty near every day about what happened down on the harbor there.

Q. Have you had any conversation with this newspaper man about this accident or this case? A. No.

MR. HAYDEN: I object to that as immaterial anyway.

Q. (Mr. Lawrence Bogle) What time did you leave the Tacoma Yacht Club on this night after putting out your lights?

A. Well, I didn't leave—it was about—well, say five o'clock; I never kept track of any time.

Q. About five o'clock? A. It was daylight.

Q. And after leaving the Yacht Club, where did you go?

A. Then I went up on the boats all over and then went ashore.

Q. Went up on what boats?

A. On the yachts.

Q. Well, then you went ashore? A. Yes.

Q. And then where did you go?

A. Then I was going to go home.

Q. I know, but where did you go from shore?

A. I went from shore up on the Commercial bridge.

Q. And what time was it when you arrived on the Commercial bridge? A. Oh, about five—5:30.

Q. 5:30? A. Yes.

Q. The lights were out on the "Strathalbyn", the ship's lights were out at that time, were they—put out?

A: 5:30. Yes, it was pretty near dark when I saw her; I don't know exactly the time.

Q. And you met this longshoreman friend on the dock, did you? A. No, no friend, but a longshoreman.

Q. You met him on the bridge?

A. On the bridge, yes.

Q. And stopped and talked with him there?

A. Yes.

Q. What particularly attracted your attention to the "Strathalbyn"?

A. Because he asked me a question.

Q. This longshoreman directed your attention to it then, did he? A. Yes, at that time he did.

Q. At that time. And you stood there for half an hour talking with him and looking at this vessel, did you? A. Yes sir.

Q. What lights did you see on her?

A. I seen her both side-lights and her masthead light.

Q. Those are the only lights you saw, are they?

A. Yes, except her lights in the rooms and—

Q. (Interrupting) I mean the ship's lights.

A. Yes.

Q. And when speaking of the top lights you mean the masthead light?

A. I mean the masthead light, yes.

Q. You didn't see any other riding lights—

A. (Interrupting) No.

Q. (Continuing) —any range lights. Captain, on this afternoon were you anywhere in the immediate vicinity of the "Strathalbyn"? A. What you mean?

Q. How close were you to the ship during the afternoon? A. Oh, not very close.

Q. I will ask you this: How close were you when you saw her deck cargo? You testified you saw her deck cargo.

A. The night you mean when she went out? Oh, about five or six blocks away from her.

Q. You saw her deck cargo at that time? A. Yes.

Q. Could you tell very much about it, captain?

A. No, I can't tell much about the deck cargo.

Q. Was it secured, lashed, at that time?

A. Anyway some part of it was, yes.

Q. You could see that from where you were, could you? A. Yes.

Q. Stanchions were all up in place, were they?

A. Well, I should think so.

Q. Well, I want to know whether you know?

A. No, I don't know how many stanchions they generally use on that boat.

Q. Did you notice any stanchions up?

A. Oh, yes, I know there was some stanchions.

Q. While you were on the Commercial bridge talking with this longshoreman, were you observing this ship all the time?

A. Most of the time, yes, not—I was not exactly standing looking at the boat, but we were standing leaning over the rail, you see, and that make us face the boat.

Q. What was the height of this bridge above the deck of the steamer, how far above the lights were you standing? A. The deck of the steamer?

Q. How far above the "Strathalbyn's" lights were you standing?

A. Well, that is a question I don't know exactly how to answer.

Q. What is the clearance of the Commercial bridge?

A. From the water?

Q. From the water, low water?

A. Well, the bridge I should think is about 25 feet.

Q. That is 25 feet clearance above low water?

A. No, that is down to the ground, and then comes—

Q. (Interrupting) I want to the water?

A. Then comes about three feet more to that, then I guess about—I think it should be about low water about that time—at that time of the year, and so it would be about—well, about 18 or 20 feet, as I say. I can't figure it out any closer than that.

Q. I understand you then that the bridge was about 45 feet above the water—low water?

A. Yes, somewheres around there.

Q. At low tide which way does the tide run there, captain?

A. The way the tide runs when there is low tide?

Q. Yes, does it run out of the harbor, or in?

A. It runs in the harbor when there is low tide.

Q. In the harbor? A. Yes.

Q. In other words, it was running toward the position that you were standing?

A. Yes, sure; when there is low tide, the water starts to come in again, you see.

Q. What I want to get at, captain: You were standing on the Commercial Street bridge, weren't you?

A. Yes sir.

Q. In what direction is that from where the "Strathalbyn" was moored?

A. That is exactly about north.

Q. North.

Q. (Mr. Hayden) You mean the "Strathalbyn" was about north from you?

A. Yes, from me, of course.

Q. (Mr. Lawrence Bogle) The "Strathalbyn" was north from you? A. Sure.

Q. Which way was the tide running, north or south?

A. That is a thing you can't hardly give any answer to either, in the harbor there, but in the middle channel of course the tide runs out when there is high water.

Q. Runs out north or south?

A. Well, that will be north northwest or northwest or somewheres around there, I think.

Q. The tide runs in a northwesterly direction?

A. Yes; not anything to be sure of, but that is the way I figure it.

Q. You testify that from where you were standing on this bridge the "Strathalbyn" was a distance of about a quarter of a mile?

A. Yes, I think so, about that.

Q. And you stood there for a half an hour watching this vessel. The vessel was swinging back and forth, was she, at her moorings? A. Yes, more or less.

Q. You saw both side-lights? A. Yes.

Q. Do you know where those side-lights were located? A. No.

Q. You don't know which bridge they were on?

A. No.

Q. What kind of lights were they, electric lights or oil? A. I don't know.

Q. Did you see any other vessels coming in the harbor while you were standing there?

A. Oh, yes, these here local steamers.

Q. What steamer did you see coming in?

A. Oh, well, I didn't pay much attention to that. I think I see the "Sentinel" or whatever the name is.

Q. Did you make out her lights without any difficulty? A. Yes.

MR. HAYDEN: I object to that.

Q. (Mr. Lawrence Bogle) What kind of lights was she carrying?

MR. HAYDEN: What do you mean, the "Sentinel"? I object to that as immaterial.

Q. (Mr. Lawrence Bogle) What kind of lights was she carrying? A. The same as usual.

Q. Well, what? A. Running lights.

Q. Electric lights or oil lights?

A. Oh, I don't know what kind of lights.

Q. Do you know the difference in brilliancy between electric and oil lights?

A. Yes, if you get close enough you can—

Q. (Interrupting) Which is the brighter light?

A. Oh, I don't know which one. I prefer to use—

Q. (Interrupting) I didn't ask you that. I asked you which was the brighter light.

A. Well, of course depends on the candle power you are using; if you use candle power enough, of course the electric light is the brightest, and is too bright sometimes.

Q. Well, captain, did the "Strathalbyn's" lights appear to be oil light or an electric light, to you, as to brilliancy?

A. The brilliancy, I could take them for both, I should think.

Q. Would you say that that light was as brilliant as an ordinary electric ship's light as carried on these Sound steamers?

A. Well, I don't know. The light appeared to me as a good light; that is all I have got to say about it.

Q. Did they appear as good as the ordinary electric light carried by these Sound steamers? Have you ever seen the "Flyer" at night?

A. Yes, I have seen the "Flyer."

Q. Were the "Strathalbyn's" lights as good lights as hers? A. As good lights?

Q. Were they as good as the "Flyer's" lights?

A. I should think so, yes.

Q. Have you ever seen the "Indianapolis" at night?

A. I have been on board of her at night, I have seen her side lights.

Q. Were the "Strathalbyn's" lights as good lights as hers?

A. No, not in the distance I seen those lights. I have generally been on the boat. When I seen the "Indianapolis" they appeared awful strong.

Q. You saw the green light more than the red. Did you see the red light at all, captain?

A. Yes, I did.

Q. You would swear to that, would you? A. Yes.

Q. And you testify that from the position you were standing, a quarter of a mile ahead of this vessel, you saw both lights at the same time? A. Yes.

Q. You are sure of that, are you, captain?

A. Yes sir.

Q. This was over a year ago that this happened, wasn't it? A. Yes.

Q. You have observed a good many ships and ships' lights since then, haven't you? A. Oh, yes, quite a few.

Q. Why is this particularly impressed upon your mind at this late date, captain, that you saw both those lights at once? Was there anything peculiar about that that would impress it upon your mind?

A. No. It impresses a man's mind, you see.

Q. I say, was there anything peculiar about the fact that you saw both of those lights at once that would impress it upon your mind so that you remember it over a year later? A. No, not exactly.

Q. Did you ever notice that on any other vessel?

A. I generally pay attention to every ship.

Q. I understand that, but did you ever notice that in any other ship? A. Oh, yes; oh, yes.

Q. What other ships have you noticed it on over there in the last year? A. In the last year?

Q. Yes.

A. Oh, I never taken up any special names on any because they are generally deep-water ships that goes over there laying and makes ready to go to sea, you see.

Q. I understand, now, you never pay any particular attention to names, but you remember this ship distinctly, do you?

A. Yes, I do, I remember that.

Q. But you don't remember any other ship?

A. Not any names, no.

Q. Don't remember any other name of any other ship?

A. No, not taken note of any—any name.

Q. Were there any other ships in the harbor in the vicinity of the "Strathalbyn" on this night?

A. Not for anchoring.

Q. Well, were there any other ships passing back and forth?

A. Passing forth and back, yes. Not any steamers of any size, just these here local boats as I told.

Q. Did you get aboard this vessel the next morning after the collision? A. No sir.

Q. How did you make your examination of her light-boxes and stanchions and so forth?

A. I was laying right forward there and rowed around.

Q. You rowed around her?

A. Rowed around her about—I don't know how many times.

Q. Were you employed by anyone to make this examination. A. No sir.

Q. Out of idle curiosity? A. Yes sir.

Q. You did not go aboard the ship at all?

A. No sir.

Q. Now, you have testified that there was no difference between her cargo and the stanchions the day after the accident from what the condition was the day before the accident.

A. Not as I can know of, I didn't say—

Q. (Interrupting) Not that you know of.

A. You know I didn't measure or done anything of that kind. When I looked at the stanchion it appeared to me everything was all right, that is the way, and if there is anything wrong we generally see it.

Q. It appeared to you to be all right. A. Yes.

Q. In other words, the stanchions were up in position, that is about all you know, isn't it?

A. Yes, stanchions were—

Q. (Interrupting) You didn't examine them to see at all the day before?

A. I seen them, yes, but I didn't—

Q. (Interrupting) At a distance of four or five blocks? A. Yes.

Q. So you don't know whether they were in the same position or not, do you? A. No, sir.

Q. You testified they were.

MR. HAYDEN: I beg your pardon, he didn't testify any such thing; he testified that was his impression, that it was his understanding that they were.

Q. (Mr. Lawrence Bogle) You made no examination of the light-boxes, light-screens?

A. No sir, no. Have a look at them, yes, but I didn't go aboard and make any.

Q. You looked at them from the water in a row boat? A. In a row boat, yes, from forward.

Q. From forward?

A. From forward and all around.

Q. And were you in a position at any time where you were right straight ahead of this vessel in the row-boat, that you looked to see if the stanchions obstructed the lights?

A. Yes, I think I was, so far as I—I tried to.

Q. You tried to? A. Yes.

Q. You tried to get directly ahead of her in this rowboat? A. Yes.

Q. Would you swear that you were?

A. Oh, no. Oh, no, I had no compass or anything of that kind, but—

Q. (Interrupting) You have testified that there were no obstructions in the way of these lights, that the light-screens were all right. A. Yes, so far as—

Q. (Interrupting) Did you make any examination of them so that you know anything about that?

A. Well, I make the examination I have told you.

Q. You did what?

A. I made the examination I have told you, I say it was just rowing around in the boat and—

Q. (Interrupting) Did that examination enable you to testify, under oath, that those light-screens were all right and that there were no obstructions in the way of them?

A. No, no, not exactly, I could not do that.

Q. What time did you see this vessel the next morning?

A. Oh, first in the morning was about eight o'clock, half past seven or eight o'clock.

Q. Had they started to unload?

A. No, no, they put her on the beach first, you see.

Q. Was she on the beach when you saw her?

A. No, she was out to the mooring—to the buoy there.

Q. What was this longshoreman's name that you were talking to? A. I don't know.

Q. You don't know him, do you. A. No.

Q. What was the direction of the wind on that night? A. About south, I think.

Q. Have you ever talked to anybody about this case?

MR. HAYDEN: I object to that as immaterial.

A. Not specially, no.

Q. (Mr. Lawrence Bogle) Nobody especially?

A. No. I talked an awful lot about it the first days, of course, because I had—

Q. (Interrupting) Have you talked to anybody about it recently? A. No.

Q. Never talked to Mr. Hayden about it? A. No.

Q. Never had any conversation with Mr. Hayden about this case? A. The first day I seen him today.

Q. Today? A. Yes.

Q. Did you ever have any talk with Mr. Foss, the gentleman sitting next to Mr. Hayden?

A. I have talked with him once in a while.

Q. Once in a while? A. Yes.

Q. When did you first talk to him about this case?

A. The question if I had seen the things.

Q. I say when?

A. Oh, that is long ago, quite a long time ago.

Q. Do you know Mr. Foss? A. Yes, I do.

Q. How long have you known him?

A. Oh, I have known him for several years.

Q. Is your recollection any clearer of these events, since talking with Mr. Foss, than they were before?

A. What?

Q. Is your recollection any clearer, since talking to Mr. Foss, than it was before? A. Clearer? No.

Q. Did the fact that you saw both of those lights at the same time make any impression upon you at the time when you were standing upon the bridge?

A. No, not any.

Q. But it is very clear in your recollection now?

A. Yes sir, because we were specially talking about them, me and that longshoreman.

Q. You were specially talking about the fact that you could see both lights at the same time?

A. Yes, because you see sailors and longshoremen

always follow such things and questions and things come up.

Q. Why were you particularly talking about the fact that you could see both side-lights at the same time, is that anything unusual? A. Oh, no, not for me, no.

Q. But you were standing there talking about that fact, were you?

A. Yes, we were standing there chewing the rag.

Q. I mean were you talking about that particular fact, that you could see both lights at the same time?

A. Yes, sure, sure.

Q. This vessel was swinging back and forth all the time, wasn't she? A. Yes, sure.

Q. Isn't it possible, captain, or probable, that as she was swinging back and forth that you could see both lights, but not at the same instant,—she would change very quickly, wouldn't she, her position?

A. No, she don't need to change very quickly for to see both at the same time, it kind of run a long time and I can see both side-lights on a steamer when you are exactly dead ahead—right ahead of you.

Q. Yes, but if there are any obstructions in the way you could not see both of them at the same time, could you?

A. No, I don't think so, not if there was anything in the way on the amidships section. Of course if it was on the other section it would not have anything to do with the forward part.

Q. What I asked you was, she was swinging, her bow was swinging back and forth with the wind and tide? A. Yes.

Q. And you would see one light and you would see the other light? A. Yes.

Q. There would be a very small fraction of time between the times she would swing her bow back and forth so that you would see the different lights?

A. I can't—

Q. (Interrupting.) That is, you would see the green light and she would swing so that you would see her red light? A. Yes.

Q. And she would swing back and you would see the green light? A. Yes.

Q. And in those different exchanges there would be a very small fraction of time from the time the green light was shut out until you would see the red?

MR. HAYDEN: What do you mean by a small fraction of time, a second?

MR. LAWRENCE BOGLE: I will get at that.

MR. HAYDEN: I want an intelligent question.

MR. LAWRENCE BOGLE: It is intelligent to me, and, if it is to him, it is all right.

A. Well, I will tell you, I don't exactly know what you are meaning.

Q. (Mr. Lawrence Bogle.) Well, now, you say her bow was pointing to you? A. Yes.

Q. You say that you could see her green light?

A. Yes.

Q. And when her bow would swing over, her red light would come into view, wouldn't it? A. Yes, sure.

Q. Now, how long a time would it be that you could see both of those lights at the same time?

A. Oh, that was not very long.

Q. How long?

A. I don't know; but I seen them, that is all there is to that.

Q. Well, now, if the green light would be shut out and you would see the red light alone, how much space would it be from the time the green light was shut out before you could pick up the red light?

A. That is a thing, you see, I can't give you any answer to, because that is an awful—you have to have a chronometer if you are going to judge by the time that way.

It would be necessarily a—

Q. (Interrupting.) Would it be a half a minute?

A. A half a minute?

Q. Yes.

A. Well, I can't tell you that, you see, because sometimes the boat might lay there for a minute or two; you can see it probably—

Q. (Interrupting.) See both of them.

A. I would not say this one did, but it could do it and might lay there for five minutes; but I could see both lights.

Q. Did this vessel do that?

A. That is what I say, I don't know if this vessel did do that, but I did see both lights.

Q. At the same time? A. Yes sir.

Q. You are positive of that? A. Yes sir.

Q. Did you have any conversation about that with Mr. Foss? A. No, he never asked me that.

Q. Never asked you whether you could see both lights at the same time?

A. Oh, yes, if I seen both lights, he asked me about that, but not—

Q. (Interrupting.) Captain, you have testified here that you have had great experience in marine matters. I will ask you if you could see both the lights of a vessel, provided they were unobstructed, a distance of an eighth of a mile ahead of her.

A. An eighth of a mile ahead of—

Q. (Interrupting.) The vessel, provided you were directly ahead? A. Yes, you are supposed to do that.

Q. Could you see it at a distance of 200 yards ahead of her, if you were directly ahead? A. Sure.

Q. Could you see it at a distance of a hundred yards?

A. Well, it is getting closer, it is hard to tell; depends a whole lot on the width of the ship too, you see, when you get closer, but I think—a hundred yards I think you can see it.

Q. Could you see it standing on the ship's bow—could you see both of her side-lights?

A. No, I don't think so.

Q. Don't you know?

A. Well, if I stand on the ship's bow, that just depends on how far off the side light is, too.

Q. Depends upon how far the side-lights are from where you are standing? A. Yes.

Q. We will say—

A. (Interrupting.) Most ships I have been in I can see them.

Q. You can see the lights, standing on the bow?

A. I can see them.

Q. Both lights? A. Yes.

Q. Can you tell me of a single ship that you have

been in, that you could stand on her bow and see both lights? A. A single ship?

Q. Any one ship that you have been in, or that you have been on, that you could stand on the ship's bow and see both lights?

A. Yes, I can tell you a whole lot of sail ships I have been in, laying out on the jib-boom making fast sails during the night I could see both side-lights easy as anything. Of course if you look clean straight on the boat you must remember that you could not see any of them.

Q. Of course if you were looking at the cabin you could not see the lights?

A. No, that is impossible, but if you—

Q. (Interrupting.) If you look for the lights themselves—

MR. HAYDEN: Interrupting.) Let him answer, will you?

Q. (Continuing.) —can you see both of them?

A. Yes, if I just look at one side I can see, but if I look straight on the boat it is not possible; but a little bit one side, you can see both lights. Oh, no, that would not exactly do, to see them that way; that is about the time to quit, too.

Q. What do you mean by that?

A. I say when you get them that close—when you get the side-lights that close, it is about time to quit.

Q. What time do you say that it was that you were on the Commercial Dock looking at these lights?

A. Between five and six o'clock.

Q. Is that the nearest you can get to it? A. Yes.

Q. Do you know when the vessel left that night?

A. No, not exactly.

Q. Was she still stowing her cargo. A. Oh, no.

Q. She had finished doing that, had she.

A. She was about through?

Q. The cargo was all stowed?

A. Yes, I think so. Yes, if they didn't make any extra after dark.

REDIRECT EXAMINATION.

Q. (Mr. Hayden.) Captain, what did you do when you were out in your row boat to judge that you were

directly ahead of the "Strathalbyn," how did you make your mind up that you were directly ahead of the "Strathalbyn," when you say you were looking to see whether the stanchions obstructed the light-screens or not? A. I had the two masts in line, you see.

Q. Is that how you judged?

A. Yes, and of course the bow of the boat, you could not very well find that.

Q. Did you look along the stanchions or anything of that kind?

A. No, not any special. I looked special on the bridge and see about the screens. Of course this happened at night, you see, and I knew there was a light proposition, a pretty bad accident, and I had a job of having the man in my boat who was killed, so that boat was more in my mind than anything else.

Q. You said, captain, it was hard for you to tell how the tide was running where the "Strathalbyn" was. Is that what you mean, it that what I understand you?

A. Yes, that is hard to tell.

Q. What do you mean by it is hard to tell, why is it hard to tell?

A. It depends upon how Puyallup River runs, you see, the ebbs and eddy coming there. I have not hardly seen the same tide in Tacoma two times.

Q. Captain, were you acquainted before this accident with the owners of the "Strathalbyn," or the captain or the pilot of her?

A. Not know anybody; I don't know anybody yet.

Q. Did you know anybody on the "Virginian"?

A. Not at all.

Q. Don't know the pilot on her? A. No.

Q. Don't know the pilot on the "Strathalbyn"?

A. No.

Q. (Mr. Lawrence Bogle.) Beecher?

A. No, no. That probably have been some others, but I didn't went through the paper to see, I didn't see who was pilot on either one of them.

Q. You have not any interest at all in the "Strathalbyn", have you? A. No. Too bad I haven't.

RE-CROSS EXAMINATION.

Q. (Mr. Lawrence Bogle) Captain, how far were

you ahead of the "Strathalbyn" when you saw both of her masts in line?

A. Oh, different distances. I put my stern to her mast so good as I could and looked and—

Q. (Interrupting) How far was your row boat from her bow?

A. Oh, about a couple or three hundred yards.

Q. A couple or three hundred yards?

A. Up to three hundred yards, the longest, because I know there was some kind of mistake and—

Q. (Interrupting) How much of a list did she have at that time? A. Oh, she was laying way over.

Q. How much of a list?

A. 45 degrees, low water, coming out

Q. Captain, in the conversation with Mr. Foss, did he tell you that he had two suits pending against the "Virginian" on account of this collision? A. Suits?

Q. Yes. A. No.

Q. Did he tell you he was interested in the result of this litigation in any way? A. No.

Q. Didn't he mention that to you. You know Mr. Foss is an attorney, don't you? A. Yes, I know it.

(Witness excused.)

(Filed April 5, 1913.)

DEPOSITIONS OF WITNESSES WM. HENRY LOGAN AND JOHN CAMERON. STIPULATION.

It is hereby stipulated and agreed between and by the respective parties that depositions may be taken at this time on behalf of the respective parties before C. F. Davie, Esq., a Notary Public, in and for the Province of British Columbia, at Victoria, British Columbia, and may be transcribed and read in evidence in behalf of the respective parties with the same effect as though said depositions had been taken before the UNITED STATES COMMISSIONER to whom the taking of testimony in this case was referred; it is further agreed that the signatures of the witnesses to the testimony as transcribed are hereby waived and that all objections as to the time and manner of taking the depositions are hereby waived and the depositions may be read in evi-

dence with the same effect and subject only to the exceptions taken at this time.

WILLIAM HENRY LOGAN, having been duly sworn, was examined by Mr. Hayden and deposed and testified as follows:

1 Q. What is your name? A. William Henry Logan.

2 Q. What is your business?

A. I am a special surveyor for the Salvage Association, London.

3 Q. You reside where? A. Victoria.

4 Q. And you are one of the gentlemen who were present at the time the Steamship Strathalbin was measured in Victoria? A. Yes.

5 Q. Who else was present at that time?

A. Mr. Frank Walker, Mr. Charles Jack, the Captain of the Steamer—there were others, who, I don't remember—the chief Officer holding the tape.

6 Q. And the attornies?

A. Mr. Hayden and Mr. Bogle.

7 Q. I want you to look at this blue print and see if that is your signature?

(Blue print marked Claimant's identification, 5-5, handed to witness.)

A. Yes, that is my signature.

8 Q. Has anything purporting to be an error in connection with that blue-print been called to your attention—answer that Yes or No? A. Yes.

9 Q. What have you got to say as to whether or not measurements, any measurement in that blue-print, does not correspond with the measurements taken at that time that Mr. Jack and Mr. Walker and Mr. Bogle and myself and the Captain and the Chief Mate were present?

A. (Indicating on blue-print) This 46'-10" (Forty-six feet ten inches) mentioned here is the measurement we took between the brackets on which the lights hang; this 4½ (Four and a half) is the addition which goes to the flame of the light; that makes 47'7 (Forty-seven feet seven), that is the measurement we took. These measurements on the main-deck I haven't got, I know we took them every two

stanchions, those I don't remember and I haven't got any notes of them.

- 10 Q. What does the blue-print show in regard to the measurements of 46'10 (Forty-six feet ten)?

A. To me it would show Forty-six feet ten and four and a half inches, that is exactly what we got, that is exactly the measurements given.

- 11 Q. Does that blue-print show the brackets?

A. No, does not show the brackets.

- 12 Q. Where were the brackets you referred to?

A. The brackets on the outside part of the fore and aft portion of the screen.

- 13 Q. When you speak of screen, what screen do you refer to?

A. The regular light screen on the lower bridge.

- 14 Q. Now, Captain, look at the line that is dropped down from the light bracket to the arrow-head and the line on which 46'10" is written, where the words "46'10" Between Blocks on forward end of Screens" and so forth, and see if that line is dropped down from the light bracket or where in your opinion it is dropped down from?

MR. BOGLE: I object to that, the blue-print itself shows where it is dropped from.

A. I don't know what the intention is here, it would appear to be drawn from the fore and aft part of the screen, it appears to me to be drawn from the inside of the blocks, that is the way I would read that, that that was drawn from the inside of the blocks of these lights or somewhere about the brackets.

- 15 Q. Do you remember at the time of taking these measurements whether or not Mr. Walker and Mr. Jack and yourself agreed as to the measurement Forty-six feet ten?

MR. BOGLE: I object to the question as leading.

A. Do I have to answer that?

- 16 Q. Yes?

A. It was me that held the tape, I called out "Forty-six ten", they both put it down.

- 17 Q. Did you have any subsequent checking of notes with Mr. Walker and Mr. Jack or both of them

where there was any agreement as to the Forty-six feet ten?

MR. BOGLE: What notes, the witness has stated that he had no notes.

MR. HAYDEN: He just referred to the notes.

A. I did not have any understanding with them that was to be laid on the blue-print; I did not see those notes they had of the measurements I called out.

MR. BOGLE: I object to any reference to the notes if he did not see the notes.

- 18 Q. The measurement you got between brackets to the light screens was Forty-six feet ten?

A. Forty-six feet ten.

CROSS-EXAMINED BY MR. BOGLE.

- 19 Q. You say that you represent the Salvage Association of London? A. Yes.

- 20 Q. Do you represent either of the parties to this suit, either the owners of the Strathalbin or the owners of the Virginian?

A. No, I am for the Underwriters only.

- 21 Q. Did you represent either of the parties at the time these measurements were taken? A. No.

- 22 Q. Do you remember why you happened to go out that day?

A. I was asked to go down there, if I remember rightly, by Mr. Jack.

- 23 Q. Mr. Jack is the special representative of the owners of the Strathalbin?

A. Yes; I was asked to go down there—I don't know whether I mentioned I went down with Mr. Walker.

- 23 Q. At Mr. Jack's request?

A. I think it was at Jack's request.

- 25 Q. Mr. Walker didn't request you to go down?

A. I don't remember that he did, I don't think so, I don't remember, I am not very clear on that point.

- 26 Q. Did you take any notes of the measurements?

A. No, I did not take any.

- 27 Q. You did not take any notes at all?

A. I held the tape, Walker and Jack took the notes.

- 28 Q. Which end of the tape did you hold?

- A. I held the measuring end right through.
- 29 Q. Who held the other end?
A. The Chief Officer of the ship.
- 30 Q. You took no notes of any of the measurements?
A. No, I did not take any notes of the measurements that were taken. That measurement between those two brackets was taken several times.
- 31 Q. Do you at this time remember anything of the measurements which was taken on that day?
A. Only the first measurement on the main deck. Forty-eight feet eight inches.
- 32 Q. Where was that?
A. About two feet forward of the bridge, on the deck.
- 33 Q. Between what points?
A. Right across the ship.
- 34 Q. Was that with the tape straight from the inside, from the inside of the bulwark rail on the starboard side to the inside of the bulwark rail on the port side?
A. I am not very sure. I think that was the extreme breadth over all, over the top of the rail.
- 35 Q. The Strathalbin is well-decked?
A. She has two wells, what we call a three-island ship.
- 36 Q. Her rail extends some little distance above the deck? A. Yes, four feet above the deck.
- 37 Q. And the top of the rail itself —
A. The top of the rail is formed by a bulb angle bar, half-inch bar, four inches wide, the plate comes up outside of that.
- 38 Q. From the inside of the bulb rail to the outside of the ship, the overhang of that rail?
A. About four inches, looks about a four-inch bar.
- 39 Q. As I understand you, this measurement two feet forward of the bridge includes the four inches on either side?
A. Yes, extreme breadth of the ship.
- 40 Q. So the measurement would be four and a half inches less on either side?
A. Yes, but I am not quite sure as to that four

inches,—may have been five, I am sure it included that.

- 41 Q. Do you remember any of the other measurements made?

A. No, I don't remember how they went along, there were a good many of them.

- 42 Q. Do you remember any of the measurements besides this Forty-six feet ten?

A. I think across the forecastle was about Forty-two; I am not sure, that was about the only other one I remember, either Forty or Forty-two.

- 43 Q. You signed this blue-print, Claimants exhibit 5-5? A. Yes.

- 44 Q. Did you check over the notes before you signed it?

A. That was brought to my office by Mr. Jack and he called from his note-book and I went over the measurements on the blue-print.

- 45 Q. In signing, certifying it as correct, you didn't take them from your own knowledge, but as I understand, you just checked with Jack's notes?

A. Just checked with the notes in his book; they were much fresher in my memory than they are now.

- 46 Q. That is about a year ago?

A. Yes, quite a year ago; I was perfectly satisfied they were correct at that time.

- 47 Q. Not checked from the measurements you took, but merely certifying Jack's measurements?

A. Of course I concluded he put down what I called out; but these measurements across the forepart forward of the bridge and on the bridge are absolutely sure of, they were taken several times over.

- 48 Q. You are not sure of the other measurements?

A. Except that one across the forecastle, either Forty or Forty-two.

- 49 Q. You are not as sure of any of these measurements as you are of the Forty-six feet ten?

A. No, we didn't take any of these so often, that is what impressed it upon my mind, we went at that two or three times.

- 50 Q. Do you remember any of the other measurements taken on the lower bridge?
A. Some vertical measurements taken there but I am not quite sure of them; I think it was eighteen feet up to the bridge rail.
- 51 Q. What was your understanding of the purpose of taking these measurements on that day?
A. My understanding was, to see whether the lights would show across the bows or ahead, ahead, or how.
- 52 Q. Did you understand at that time Mr. Walker was representing the Virginian?
A. Representing the Virginian?
- 53 Q. Yes? A. I don't know that I did.
- 54 Q. Mr. Frank Walker?
A. Yes, I would call it he was representing the Virginian.
- 55 Q. Did you know at that time Mr. Jack was there representing the Strathalbin?
A. He was the special representative of the owners.
- 56 Q. I mean at this particular time?
A. Yes, in all things Jack was representing the Strathalbin.
- 57 Q. Did you have any knowledge of an agreement between the attorneys in this case, or between the surveyors in making these measurements? A. No.
- 58 Q. You were not a party to that agreement?
A. No.
- 59 Q. Did you have anything to do with the producing of these measurements on the blue-print or tracing? A. Nothing at all.
- 60 Q. When did you first see the tracing or blue-print, the tracing which the blue-print, claimants exhibit 5, is?
A. When Mr. Jack brought it to my office several days after the measurements were taken.
- 61 Q. Was it within a week after the measurements were taken?
A. Some few days, not very long, just previous to his leaving whenever that was, I don't remember when he left.

62 Q. Was that blue-print in the exact condition as you see it now?

A. There appears to be an erasure, whether there was anything there or not, just at the top there, on this line: below "bridge".

63 Q. Did you notice that at the time?

A. No, I did not notice it.

64 Q. Did you notice anything at the time you signed this blue-print?

A. No, I was perfectly satisfied the measurements were correct.

65 Q. Did you notice anything to be there where you say now appears to be an erasure?

A. No, I don't call to memory there was.

66 Q. When did you first notice there had been an erasure there? A. Just now.

67 Q. First time you had ever seen that erasure?

A. Just now.

68 Q. Ever seen anything written across there where that erasure appears to be?

A. No, I don't remember that.

69 Q. Otherwise, was that blue-print in the same condition as you see it now?

A. As far as I know it was; I don't remember that blue-print very clearly, only that I checked it up; just exactly what was on it I would not be prepared to say.

70 Q. Do you remember what figures were put on it by you and Mr. Jack?

A. Yes, I remember they were taken out of his book quite clearly, these figures, Forty-six feet ten, Jack wrote these figures, I didn't, these were the figures agreed upon between he and I; I am not clear whether these ink figures were there or not at that time, whether he put them on, or how, I don't remember that.

71 Q. Do you remember any of the other ink figures?

A. Only my own signature; Jack signed it and I signed it.

72 Q. There are some white printed figures and some ink figures, do you remember whether the ink figures were there at the time you signed it?

A. I have not any very clear recollection, but my opinion is, my idea is, that these spaces were left vacant until Jack brought the blue-print to my office, and, as we checked them over, so he wrote them down; he first called them out to me, I have got an idea he wrote those down, but I am not clear on that point at all.

73 Q. I don't notice the figures 48.8 you spoke of on this blue print?

A. You don't notice that? I think you will find that was the first measurement across the ship.

74 Q. But it was not put on the blue-print?

A. I don't know whether it is or not.

75 Q. I wish you would state just when this alleged mistake in this blue-print was first called to your attention and by whom?

A. Mr. Hayden was the first I heard speak of the error in the blue-print.

76 Q. What time of the year, as to the length of time, when that blue-print was signed by yourself?

A. I can't just remember, I don't know whether one month or two—I cannot remember.

77 Q. Do you remember when these measurements were taken?

A. I am not sure of the date, taken while she was laying in dry-dock at Esquimalt.

78 Q. And the blue-print was presented to you by Jack within a week?

A. Presented to me before he left; I can easily find out when he left, day or two before he left.

79 Q. You could not give near the approximate time this was called to your attention?

A. No, I could not tell you that.

80 Q. How was your attention called to it?

A. The first I heard of it I spoke to Mr. Walker.

81 Q. How was your attention first called to it?

A. I cannot tell you how I first came to hear it.

82 Q. You say called to your attention by Mr. Hayden.

A. Mr. Hayden first spoke to me, he told me there was an error in the blue-print, he wrote to me, I have got his letter in the office—

MR. HAYDEN: Get the letter will you, please;

Mr. Bogle, I want all the correspondence, bring it down, which you had regarding that.

THE WITNESS:—whatever it was you wrote me.

MR. BOGLE: I don't see any necessity for all the correspondence, the only point is the time.

MR. HAYDEN: I have got a copy of the letter which will answer the purpose we want it for, I think I have.

- 83 Q. While Mr. Hayden is looking for that letter, please state your connection with this blue-print from the time it was signed by yourself and Mr. Jack till it passed out of your possession?

A. I am not sure whether I took that to Mr. Walker or not, but I think I did, and he signed it.

- 84 Q. Do you remember when that was?

A. That was before Jack went also.

- 85 Q. When you took it to Mr. Walker did he compare the blue-print with his notes?

A. I am not very clear on that point either.

- 86 Q. Mr. Walker signed the blue-print as being correct, did he not?

A. Yes, I am not very sure about that transaction; I would not like to say whether I took that blue-print to Mr. Walker or not, I think I did.

- 87 Q. After Mr. Walker signed the blue-print did he keep it, or did you take the blue-print?

A. That transaction I don't remember clearly at all; I am of opinion that I took that over and got it signed and sent it to Jack; I don't know whether I sent it to Jack or forwarded it to Mr. Hayden.

- 88 Q. Is it not a fact, that after Mr. Walker had signed that blue-print you personally took it over and gave it to Mr. Hayden? A. I?

- 89 Q. Yes, in Tacoma.

A. No, I don't think so, I don't remember having done anything of that kind.

- 90 Q. Do you remember what happened to the blue-print after Mr. Walker signed it? A. No, I don't.

- 91 Q. Do you remember whether you left it with Mr. Walker and he kept it?

A. I don't remember whether I left it with Mr. Walker or what I did with it, my impression is I

sent it to Jack; if Jack was in Victoria I would take it. I am not clear on that point, or whether I took it to Walker at all or not, I don't remember.

92 Q. Do you remember your conversation with Mr. Walker at the time you took it to him?

A. No, I am not clear as to that.

93 Q. Do you remember promising Mr. Walker you would send him a copy of the blue-print immediately?

A. Let me see—I think you are right, I think that is right.

94 Q. Do you remember Mr. Walker making a demand for a copy at that time?

A. Yes, he wanted a copy of the blue-print.

95 Q. After that time did you make any efforts to get a copy of that blue-print for Mr. Walker, and if so, state what efforts you did make?

A. I have got an idea that I telephoned the B. C. Marine Railway, and they told me they didn't have any other copy.

96 Q. Did they tell you where the originals were?

A. No, they said they didn't have a copy and did not have a tracing; they they did not tell me where the original copy or the original tracing were; as far as I can recollect, I think they told me that Mr. Jack had taken them home.

97 Q. Do you remember writing to Mr. Walker telling him that Mr. Jack had taken the tracing and all of it East?

A. I don't remember. If I wrote to him I will have the copy of it in the office.

MR. HAYDEN: I think the best thing to do is to have Mr. Logan get the correspondence on the subject if you want to get it into the record and so that he knows what he is talking about.

THE WITNESS: I am not very clear.

MR. HAYDEN: I suggest I postpone his examination until he gets the correspondence, and then if you ask him about letters and things of that kind, he will probably be in a better position to answer.

MR. BOGLE: He can get the two letters I have asked him about later.

MR. HAYDEN: Before you go ahead—I will send you copy of the letter I wrote to Mr. Logan on the subject which I think is the first letter I wrote to him. Here is my telegram to Mr. Logan—read the whole business, I haven't anything to keep back of that at all; I want the record to show that I am giving all the letters I have had with Captain Logan to Mr. Bogle as well as the telegram.

MR. BOGLE: We will stipulate then the first was as to the original error, was a letter of the 13th of April, 1912.

MR. HAYDEN: If that is all you want to put in, that is all right.

98 Q. Do you know when the Strathalbyn left here after the collision, after she was repaired?

A. No, I am not clear on the date; that collision occurred in January, January 12th, and she got over here about the end of the month; it would be in April I think, I am not sure.

99 Q. Referring to Claimants exhibit 5-5, is that blue-print absolutely correct except the one possible explanation you have noted?

A. Yes, I would say it is correct.

MR. HAYDEN: I would like if there is any other measurement you have in mind as not being correct, I would like you to indicate it to Mr. Bogle, so that you may have an opportunity of answering anything you may have in mind?

MR. BOGLE: I thought the blue-print is correct as it stands excepting the one error.

100 Q. Is the blue-print presented to you before this hearing—you had an opportunity of examining it?

A. Yes.

101 Q. You saw it? A. Yes, I saw this.

102 Q. You examined it before the time of the hearing?

A. Yes, I saw this blue-print in Mr. Hayden's hands,—yes.

103 Q. What I want you to state is whether you can state it is correct, that you have gone over it?

A. I have not looked at the figures at all, have not examined it.

- 104 Q. You state this measurement Forty-six point ten between blocks is not correct?
A. That 46.10 we got between the brackets, I am positive of that measurement, and that is the only measurement on the blue-print I would swear to, that and the four and a half inches from the bracket to the flame of the light.
- 105 Q. You are absolutely positive of that too?
A. Yes, Forty-seven feet seven was the conclusion we arrived at between the flames of the lights.
- 106 Q. You are positive of that measurement?
A. Yes, I am positive of that measurement.
- 107 Q. Did Mr. Jack have any such measurement when you compared the blue-print with his notes?
A. We agreed on that.
- 108 Q. Did he have a measurement Forty-seven feet seven?
A. Four and a half inches was the size of the light, Forty-six feet ten was the measurement we got between the brackets.
- 109 Q. You are absolutely positive of Forty-six feet ten, and four and a half inches between the blocks?
A. The lights, not to blocks, measurement from the bracket to the flame of the light, four and a half inches.
- 110 Q. Would you just tell me how that measurement was taken?
A. Taken with a tape line on the bridge, bracket to bracket.
- 111 Q. I mean the measurement from the bracket to the centre of the flame?
A. That is the measurement of the lamp; I did not measure the lamp, the Captain of the ship measured the lamps, the lamps were not there, that four and a half inches was not taken, it was an allowance, that measurement was not taken while we were on that bridge—the measurement we took was Forty-six feet ten inches.
- 112 Q. No four and a half inches measurement taken?
A. No, not taken at all; four and a half inches was the Captain's statement of the size of his lights—we know that is—

MR. BOGLE: I move to strike that out as not being responsive.

113 Q. This blue-print shows a measurement of four and a half inches?

A. Four and a half inches, it states to blocks.

114 Q. Is the width of the block and the distance from the bracket to the flame the same?

A. They are the same, the flame would be a little outside the block, that four and a half inches would be the regular measurement; these light-screens according to the International rules project three feet forward of the light.

115 Q. I don't think we quite understand each other; you stated that the four and a half inches was the measurement from the bracket to the centre of the flame; now you say the block projects four and a half?

A. Four and a half inches to the screen, that is right, both of those statements are correct.

116 Q. You did not measure the distance from the bracket to the centre of the light, what you mentioned was from the forward end of the light screens?

A. Yes, four and a half inches, we did not measure the lights, the lights were not there; they would be about,—the outside of the blocks would be about,—the centre of the flame. I am not just sure; the centre of that block would be the inside part of the flame, the outside part of the block would be the inside part of the flame because the bracket would cause the lamp to stand out a little.

117 Q. How does this light screen, the inside board of the light screen,—is that parallel with the line of the ship? A. Yes.

118 Q. How far does that light board extend from the outboard side of the light screen?

A. It is off-set about an inch.

119 Q. The distance from that bracket to the centre of the flame would not be the same as the distance, the measurement of the forward block?

A. I say the inside of the flame would probably be the outside of the block, just about.

120 Q. As a matter of fact you don't know where the flame of this lamp, the lamp was not there?

A. The lamp was not there.

121 Q. The only thing you had to go by is the Captain's statement that it was four and a half inches from the side of the lamp to the centre of the flame?

A. No such statement was taken at the time.

122 Q. That was put on there from the Captain's statement?

A. No, that is the statement there, the measurement of the blocks.

123 Q. You say the forward end of the block, that is the outside end of the forward block, would not be the centre of the light?

A. The centre of the light, would be in my opinion, the outside of that, on account of the off-set; I did not see the lights, I only know from my own general knowledge what a light is, they are all fitted one way according to regulations.

124 Q. As far as you know, Captain, has this light ever been measured?

A. I don't know anything about the light, I only know what the Captain told me.

125 Q. This measurement 47.7 is merely surmise on your part and what the Captain told you?

A. Outside of the 46.10, the 46.10 I am sure of.

126 Q. Was any measurement 47.7 taken that you know of?

A. No, there was nothing to measure to for 47.7, only the four and a half inches of the blocks.

127 Q. Do you think this blue-print is incorrect?

A. No, I don't think it is incorrect, that is in my opinion, is to the centre of the flame.

128 Q. If the flame projected an inch out beyond the forward end of the light screens?

A. Was an inch outside the blocks? If the Captain's statement of four and a half inches was correct, the flames are 47.7 apart.

129 Q. The only measurements you know of are 46.10, and four and a half inches, as shown by this blue-print?

A. Yes, I would call it correct, I don't see anything wrong with it.

130 Q. You say the measurements on the deck were taken every two stanchions?

A. I mean the bulwark stanchions.

131 Q. How frequent are these stanchions?

A. About every eight feet—they are four feet apart.

132 Q. Did not you understand at the time these measurements were taken they were taken for the purpose of ascertaining one point, as to whether or not these lights were obscured by these stanchions?

A. I knew that was one point of view, as to whether or not the light would show across the bow, or whether it would show, or whether it would be obscured—the whole thing was in my mind.

133 Q. Would not that all depend upon the measurement between the port and starboard-side on the lower bridge, that was the measurement you were trying to get at?

A. Yes, that was the measurement we were trying to get at.

134 Q. The lamps were not there at the time you measured? A. The lamps were not there.

135 Q. Do you remember several different measurements were taken to try and arrive at the correct distance between those two lights?

A. Measured it two or three times over.

136 Q. You talked of how to get that correct?

A. There was some talk what was the right thing to do.

137 Q. Do you remember you suggested yourself it was useless taking all these different measurements when you had the measurement right there, that the distance between the forward block of the light screen on the starboard-side to the forward block of the light screen on the port-side would be between the centre of the lights?

A. I was not thinking all together about the centres of the flames, that is the distance between the centres of the lights.

138 Q. Did not you suggest that measurement being taken?

A. I don't remember, I might have done; I don't remember that measurement was taken; it is quite likely I would suggest such a measurement.

139 Q. Do you know whether or not, Mr. Logan and Mr. Jack agreed upon the different measurements?

A. Mr. Walker and Mr. Jack?

140 Q. Mr. Walker and Mr. Jack, as to the different measurements taken by them?

A. I heard no disagreement, they both put them down as I gave the figures out.

141 Q. Were you present when they compared these measurements?

A. I don't remember having them compared.

142 Q. Captain, what is the purpose of the blocks on the forward end of the light screen?

A. They are put there to prevent the light being seen across the bows.

143 Q. Put there for that purpose, so that the light will be seen right dead ahead, is not that correct?

A. That is correct; there was a time when they were removed for the purpose of doing away with what Captain Murray called his dog lane theory, but they were not approved and were replaced.

144 Q. Do you remember having a conversation with Mr. Walker here in Victoria sometime after he had signed this blue-print, during the course of which he asked you for a copy of this blue-print?

A. I know that Walker and I did talk about that blue print; he spoke to me about not having a copy and was much annoyed at not being able to get it.

145 Q. Do you remember the conversation to that effect, here in Victoria?

A. We had a conversation here in Victoria once or twice—I know it was more than one occasion.

146 Q. Do you remember telling Mr. Walker blue-prints were being prepared, were not dry, and you would furnish him with a copy before he left Victoria?

A. No, I don't remember having told him that, but I might have been under that impression; I have got an idea there was something to that effect, but I am not clear on that either.

147 Q. You were in Tacoma after the collision, and somewhat active in looking after the Strathalbyn?
A. Yes, I was on board the Strathalbyn while she was discharging and pumped out, while she was at the docks and until she was finally brought here to Esquimalt I was with her all the time.

148 Q. You were in daily conversation with Mr. Jack about the Strathalbyn?

A. No, Mr. Jack was not there until just previous to her coming over to Esquimalt, I am not sure how many days, two or three days.

149 Q. Prior to Mr. Jack arriving were you in charge as to advising as to repairs, and so on?

A. No, the Captain was in charge, I was watching the interest of the Underwriter, I was representing the London Underwriter on the Strathalbyn.

150 Q. Have you had any conversation recently with Mr. Walker about this blue-print?

A. No, Mr. Walker and I have not talked about that blue-print for many months.

151 Q. You had several conversations some time ago, some months ago?

A. Yes, about the time Mr. Hayden wrote me a letter.

152 Q. What was your interest in the affair?

A. My interest in the affair was really none; I was very sorry I had been mixed-up in the measurements at all, if you ask my candid opinion; I had no interest in the matter at all, not in these measurements.

RE-EXAMINED BY MR. HAYDEN.

153 Q. As a matter of fact, the Underwriters that you represent and had insurance on the Strathalbyn, also are the Underwriters who had insurance on the Virginian? A. That is correct.

154 Q. So from the standpoint of representing the Underwriters on the Strathalbyn does not in any way prejudice your influence in this matter?

A. No, I was also acting for them on the Virginian at the same time, and attended to the drawing-up of the specifications and letting of them on the Vir-

ginian in conjunction with my confrere, Mr. Gardner, of San Francisco.

- 155 Q. So far as the Strathalbyn and Virginian was concerned you were perfectly indifferent?

(Mr. Bogle objects to Counsel cross-examining his own witness.)

A. Absolutely indifferent.

- 156 Q. Are you familiar as to the instructions for surveys, instructions as to lights and sound signals, published by His Majesty's Stationery Office?

A. I am quite familiar with the International Regulations which will probably be contained in that book. I don't know whether it is anything different.

- 157 Q. Are you familiar with Rule 22, or Section 22, subject, Screens?

MR. BOGLE: What is this book?

MR. HAYDEN: Issued by the Board of Trade, England; Instructions as to Surveys, lights, and sound signals, London, published by H. M. Stationery Office, and printed by Darling & Sons, Limited, Bacon Street, E.

Q. —Are you familiar with the Rule that reads:—
“Screens of side-lights, Rule 22, Section 22, Screens. The screens of side lights, the length of which shall not be less than 36 inches from the flame to the chock, or its equivalent, are always to be placed parallel to the line of the keel, and the light so screened that the forward edge of the screen, or chock on it shall be in a line parallel to the keel and the inside of the wick”?

A. That is what I have stated already.

- 158 Q. What you intended to state in your testimony?

A. That the light in the lamp and the outboard edge of the chock—

- 159 Q. The inside of the wick of the lamp, the inside edge of the wick of the light, and the outside edge of the chock and the forward edge of the screen, shall be on a line parallel to the keel?

A. I have already shown that they should be a little outside of the block.

MR. BOGLE: I object to this as immaterial to this case; I also object to Counsel reading any statement

from this pamphlet into the record unless that is from the Board of Trade.

A. As far as that particular ship is concerned I was absolutely satisfied the screens were constructed in accordance with the regulations.

MR. BOGLE: I ask that that be stricken out as not responsive and as a conclusion of the witness.

160 Q. Did you ever see that regulation anywhere, a similar regulation to that anywhere?

A. Yes, I am more familiar with it in the rule of the road, that is the regulation for construction, and that is used by Surveyors and builders.

161 Q. I want to call your attention to this blue-print and call your attention to the distance 48.7, that is on the figure on the blue-print top of which is marked, "Bridge front", and is just back of the picture of the chocks and ask you to notice that that measurement is taken apparently on this blue-print from the inside of the rail?

MR. BOGLE: I object to that as cross-examination of his own witness.

(The witness did not answer.)

162 Q. As I understood your testimony you said that you held the tape and as you recollected it, the measurement was taken from the outside to the outside of the rail?

A. The extreme breadth of the ship, that was the way I recollect it, that is what I have in mind.

163 Q. You know you got a measurement of forty-eight feet eight inches?

A. Forty-eight eight inches was the first measurement; outside of that I don't recollect the subsequent measurements as we went along except that one across the forecastle, forty or forty-two, that I am fully confident of, that was on the forecastle deck.

MR. HAYDEN: Mr. Bogle, do you want Captain Logan to produce this letter?

MR. BOGLE: For the purpose of ascertaining the date I wanted, the date he was first notified by Mr. Hayden or informed by Mr. Hayden, there was a

mistake in the blue-print, it was stipulated that was April 13.

THE WITNESS: It was a hard job to get it into my mind that there was a mistake in the blue-print, or it is a hard job to show me yet there was a mistake in blue-print, I am of opinion the measurements were right, forty-six feet ten, and four and a half inches.

164 Q. I want you to explain further what you mean by the blue-print being right when it is forty-six feet ten?

A. And four and a half inches it distinctly states.

165 Q. I want you to explain to me why it is right when this blue-print shows four and a half inches to be the width of the block and the stars—I want to call your attention to these stars—these stars are from the outside to the inside, the block there is measured according to this blue-print is four and a half inches wide, this line runs down from the outside of the block (indicating on exhibit 5-5)?—

MR. BOGLE: I object to this as leading and, further object to this testimony as being improper cross-examination of his own witness—he has stated several times what he understood.

Q. (Contd.) Have you taken that into consideration?

A. I don't know whether he means that for the outside of the block or not; these measurements fit in with what we took, and I concluded that was correct.

166 Q. Suppose the draughtsman who made that intended that to be the distance between the outside of the block, the distance between the outside of the block is forty-six feet ten?

A. Between the outside of the blocks, no.

167 Q. Then if the draughtsman intended that line to drop on the outside of the block and forty-six feet ten to represent the distance between the port screen block and the starboard screen block, is it right or not? A. It is wrong—

MR. BOGLE: I object to this as leading and not proper re-examination; I would prefer to have Cap-

tain Logan's testimony rather than have Counsel testify for him.

A. (Contd.) It would be wrong in that case, the distance I have already stated.

168 Q. If you have got anything further to say about that measurement I wish you would say it.

A. I have said all I have got to say, that the extreme measurements in my opinion are Forty-seven feet seven, the measurements we took between the brackets are Forty-six feet ten.

MR. HAYDEN: You wanted another letter, was it not?

MR. BOGLE: No, I asked the Captain if he remembered writing to Mr. Walker to the effect that Jack had taken all the tracings and blue-prints back East with him.

THE WITNESS: I am not sure; the letter will be in my file, you are quite welcome to it.

MR. BOGLE: I just wanted to find out whether you remembered it.

THE WITNESS: I am not clear about that letter.

MR. HAYDEN: There is nothing you want the Captain to produce, is there, that is what I am getting at; I don't want the Captain to overlook producing anything you have asked to have produced at this time.

MR. BOGLE: I would like to have the Captain produce for inspection his correspondence on the question of this measurement of Forty-six feet ten.

MR. HAYDEN: If you, Captain, will get all the correspondence with me, Walker, Jack, or anybody else.

THE WITNESS: Or anybody else, you shall have it.

BY MR. BOGLE:

169 Q. Do you know what the draughtsman meant when he made this blue-print beyond what the blue-print shows itself? A. No, I don't.

170 Q. This measurement Forty-six feet ten has been called to your attention a good many times since it was taken?

A. No, I discussed it with Walker and Walker

agreed with me on the Forty-six feet ten—Forty-seven feet seven.

MR. BOGLE: I object to Mr. Walker, his testimony has already been taken and he absolutely does not agree with it.

THE WITNESS: I am very much surprised as to that.

MR. BOGLE: I object to that as incompetent.

171 Q. This measurement has been called to your attention? A. I talked it over with Mr. Walker.

172 Q. None of these measurements have been called to your attention since that time?

A. No, none of them.

173 Q. The only measurement that you know is that measurement of Forty-six feet ten?

A. Between those brackets.

174 Q. Which you think was between those brackets, and the measurement of four and a half inches between these blocks?

A. Yes on each side and the blocks are four and a half inches.

175 Q. Are these fastened to fastened to the vessel on the outboard or inboard side?

A. These are bolted to the outboard side of the screen, stand at right-angles to the screen.

176 Q. Those are the only measurements you know anything about in regard to the ship?

A. Those are the only measurements, there are too many of the others to remember.

177 Q. In this particular ship you don't know what the measurement was between the centre of the flames?

A. No, I never measured the lamp.

(Deposition concluded.)

JOHN CAMERON, having been duly sworn, was examined by Mr. Hayden and deposed and testified as follows:

178 Q. What is your full name? A. John Cameron.

179 Q. What is your age?

A. I think it is thirty-three, I am not sure.

180 Q. What is your business?

A. Ship's draughtsman.

- 181 Q. Where did you learn that business?
A. In the North of England.
- 182 Q. Under what circumstances, what schools or otherwise did you go to?
A. Graduate of Durham University, served my apprenticeship to R. W. Hawthorne Leslie, Ship-Builders and Engineers.
- 183 Q. How long were you with this firm of Shipbuilders and Engineers serving your apprenticeship?
A. Six and a half years.
- 184 Q. How big a firm are they?
A. One of the largest in the North of England, very prominent, Admiralty builders.
- 185 Q. What experience in that work have you had since you left England?
A. I put in about a year in New London, Connecticut, the Eastern Shipbuilding Company, on the building of the Minnesota and Dakota.
- 186 Q. You put in a year about in Connecticut, then where did you go?
A. About three and a half and four years with the Union Iron Works in San Francisco.
- 187 Q. Then where did you go after you left the Union Iron Works at San Francisco?
A. To the British Columbia Marine Railways in Esquimalt.
- 188 Q. In Victoria? A. Near Victoria.
- 189 Q. Close to Victoria? A. Yes.
- 190 Q. What has been the general nature of the work there you have been doing?
A. The making of necessary plans and estimates, ordering of material necessary in the construction of a ship.
- 191 Q. Do you remember the Steamship Strathalbyn in dock at Esquimalt? A. Yes.
- 192 Q. Do you remember about what time she was in dock in Esquimalt?
A. I can't just remember the date; about the beginning of the year 1912.
- 193 Q. Did you have anything to do of any kind with the measurements of the Steamship Strathalbyn when she was in dock at Esquimalt? A. Yes.

194 Q. Did you make a drawing and some blue-prints?
A. Yes.

195 Q. How many drawings and blue-prints did you make?

A. I made the original lay-out on drawing paper and a tracing of it on linen and made some blue-prints from the tracing.

196 Q. What blue-prints did you make?

A. Do you mean the number?

197 Q. No, of what? A. Of this tracing?

198 Q. What was the tracing of?

A. It was a deck-plan and part profile and cross-section.

199 Q. Did you make a tracing for the purpose of showing the necessary work for her repairs?

A. I made such a tracing later.

200 Q. Did you make a tracing at the request of Mr. Jack?

A. Of course I got my orders from the Superintendent of the works.

201 Q. Not from Mr. Jack?

A. Mr. Jack was round there, I am not quite sure, but I think in connection with some letter that had come to Mr. Jack, as to some measurements; there was a letter laid on my book just stating that certain measurements were wanted; I made a drawing.

202 Q. Do you know who that letter was from?

A. From Hayden & Huffner, Lawyers.

203 Q. From me? A. Yes.

204 Q. Did you make measurements of the Strathalbyn in connection with that letter? A. Yes.

205 Q. (Handing witness tracing) Did you make this tracing now handed to you?

A. Yes, I think that is mine.

206 Q. I am now referring to the tracing marked, "Libelants identification, 14, dated January 14th, 1913"?

A. Yes, I remember that is the same tracing.

207 Q. How many blue-prints did you make from that tracing? A. I cannot remember just exactly.

208 Q. Did you make more than one?

A. Yes, I think I made more than one, how many

more I can't say, I probably have it on record—I am not sure.

209 Q. Is this blue-print Libellants identification 5-5 taken from that tracing?

A. I would have to lay the tracing over it I suppose; (Witness compares the tracing and blue-print)—I should say it is.

210 Q. Did you put the letters and figures on the blue-print with the exception of this writing in the corner, "Checked by dimensions taken on vessel and found correct, Chas. P. N. Jack, Willm. H. Logan, Frank Walker"?

A. These pencil dimensions there are not in my figures.

211 Q. What pencil dimensions do you refer to?

A. Four feet, there.

212 Q. What part of the drawing?

A. This profile.

213 Q. Just above chart room deck on the profile?

A. Yes.

214 Q. The profile you refer to is the one showing the deck line? A. The elevation, yes.

215 Q. Where did you get the data that you put on that blue-print? A. Direct from the boat.

216 Q. All of it? A. Excepting one dimension.

217 Q. What dimension was that?

A. (Indicating) 46.10.

218 Q. Where did you get that from?

A. I got that from Mr. Jack.

219 Q. Do you remember anything that was said by Mr. Jack relative to that data 46.10?

MR. BOGLE: I object to anything that was said by Mr. Jack with reference to that data.

MR. HAYDEN: I think your objection is well taken, it is hearsay as far as you are concerned.

220 Q. You say that you made the original measurements of this boat, as I understand it, and that the measurements on here except the 46.10 are what you found?

A. No, I don't say that, I haven't checked them up.

221 Q. What did you do to get your data, how did you go about it?

- A. Well, I went over to the boat and took a rough note-book with me, as I generally do in measuring up a ship, and took my dimensions and made free-hand sketches and put my dimensions on the sketches and went back to the office and started to lay it down on a piece of drawing paper from those dimensions.
- 222 Q. Have you got your original notes that you made at the time you took these measurements on the steamer? A. Yes.
- 223 Q. Will you please produce them?
(The witness produces a rough note-book on which he indicates from time to time in his answers.)
A. There are other notes, this is a general, just a rough sketching pad that I keep, or did at that time; that is the beginning of that, some data relative to the size of the scantlings, the damaged parts, the angles, string-pieces and so forth, certain angles that were wanted there.
- 224 Q. I wish you would refer to the first page of that book that has anything to do with the Strathalbyn?
A. There is a little rough sketch I made of the forecastle deck.
- 225 Q. Will you please mark that page, C. V. 1, in a circle in pencil, put it in a circle so as to identify it, standing for Cameron, Victoria, 1—put it in a circle please? (Witness complies.)
A. That is a very very rough one, I only roughly made a sketch of the windlass there before they removed it, that is so as to get the exact place.
- 226 Q. Have any of the sketches that you now have referred to or any of the words or letters been changed or obliterated since the time you put them down? A. No, not a figure.
- 227 Q. That book has been in whose possession?
A. In my own.
- 228 Q. Now referring to the page marked C. V. 1—
A. (Indicating) This is a little rough sketch of the bed-plate of the windlass, this is merely to do with the damage.
- 229 Q. Please explain briefly what that is, C. V. 1?
A. In stripping the forecastle deck we wanted to

be able to put the windlass back as nearly as possible in the original position; that was to give me the position of the windlass on the forecastle deck.

230 Q. That was the windlass on the forecastle deck?
A. Roughly.

231 Q. Has this page (indicating) anything to do with the Strathalbyn? A. Yes, that is Strathalbyn, yes.

232 Q. Mark that, then, C. V. 2, in a circle? (Witness complies.) What does that page—what are the notations on that referring to?

A. Just some notes I made previous to going down to the boat one day, some sizes of plates, shell-plates; on the top here I have "Stem bar, frames, reverse-frames, reverse-frames, port-frames and starboard-frames—some particulars I wanted to keep in mind when I went down to get sizes, these are sizes of plates, roughly.

233 Q. Has this page (indicating) anything to do with the Strathalbyn?

234 Q. Please mark that C. V. 3, in a circle. (Witness complies.) Now what is that?

A. That is giving sizes of stringer plates and reverse-frames in the peak, bulk-head angle frames off the bulk-head.

235 Q. This only refers to frames?

A. And beams.

236 Q. Has this page anything to do with the Strathalbyn (indicating)?

A. Yes, that is Starthalbyn.

237 Q. Mark that C. V. 4, in a circle. (Witness complies.) What does that refer to?

A. That was just a very rough diagram I made to get the length of the longest frame in the forepeak.

238 Q. Has this next page anything to do with the Strathalbyn? A. Yes.

239 Q. Mark that C. V. 5, in a circle. (Witness complies.) What does that data on that page refer to?

A. Gives the size of a beam in the forepeak, upper-deck beams stem bar and frames.

240 Q. All beams? A. All beams.

241 Q. Does this page have anything to do with the Strathalbyn (indicating)? A. Yes.

- 242 Q. Mark that C. V. 6. (Witness complies.) What does the data on that purport to be?
A. Rough summary of some of the work necessary to do there for the renewal forward and that is a part of it.
- 243 Q. Put C. V. 7, in a circle. (Witness complies.) That C. V. 7, is a summary of the work? A. Yes.
- 244 Q. And the next page is a continuation of the same thing? A. Yes.
- 245 Q. Make that C. V. 8, in a circle. (Witness complies)? A. (No answer.)
- 246 Q. And the next page is what?
A. This, as far as I remember—
- 247 Q. Refer to the page as C. V. 9?
A. It is Strathalbyn, yes.
- 248 Q. Now referring to C. V. 9, what is the data on that page?
A. It is a list I wanted to get from the boat preparatory to making that sketch there.
- 249 Q. When you say that sketch you refer to the sketch you have already referred to in your testimony?
A. Yes.
- 250 Q. Marked for identification Ex. 14, that is the sketch? A. Yes.
- 251 Q. Mark this page C. V. 10, in a circle. (Witness complies.) Does that refer to any part of the Strathalbyn?
A. Yes, sketch of the bulb-angle, bulwark rail.
- 252 Q. What bulwark rail?
A. I think what I have referred to as the upper deck bulwark rail.
- 253 Q. When you say upper-deck, what deck do you mean? A. The first deck.
- 254 Q. Sometimes called—
A. May be called the upper- or main deck; I am not quite sure which was the main-deck—the deck on which the cargo was stored, I call it upper-deck.
- 255 Q. Here is a dimension figures 4.6? A. Yes.
- 256 Q. On the page C. V. 10, we are referring to now?
A. Yes.
- 257 Q. What is that a measurement of?
A. Height from the deck beams, height from the

deck to the top of the bulb-angle at the top of the rail.

258 Q. I see the figure, "3", that is a sign for inches and the word "dia."? A. Yes.

259 Q. What does that mean?

A. Diameter of moulding, half-round moulding, forming finish on the straight.

260 Q. I see "9x3" inches, bulb-angle with an arrow leading to it, explain that please?

A. That is the size of the bulb-angle at the top of the rail.

261 Q. What does the "9" refer to?

A. The long leg of the angle.

262 Q. And the "3" refers to what?

A. The flange riveted to that rail.

263 Q. That bulb-angle forms the top of the rail?

A. Yes.

264 Q. I see on the lefthand side of the lower end of the drawing "10 inches" between two parts of the arrow, what does that refer to?

A. The height of the sheer-strake of the deck, the gunwale angle.

MR. HAYDEN: I think we could avoid a great deal on the record if we would agree on the material on these pages as we go along.

MR. BOGLE: I want to avoid all the record I can.

265 Q. Referring to this figure "18" on C. V. 10, what is that?

A. That is the distance from the heel of the gunwale bar to the inboard side of the bulwark brace or support.

266 Q. That bulwark support is what?

A. Made of a bulb-plate, it supports the bulwark.

267 Q. This "8 inches" refers to what?

A. That is the width of the bulwark brace or bulwark support.

268 Q. Does this page refer to the Strathalbyn?

A. Yes, that is Strathalbyn.

269 Q. Just mark that C. V. 11, in a circle. (Witness complies.) And what is what?

A. That is a little plan, view of the chart room deck, rough plan.

270 Q. That is just the outline?

A. That is all, no dimensions.

271 Q. Is this page a part of the measurements?

A. Yes.

272 Q. Mark that C. V. 12, in a circle. (Witness complies.) Referring to the figure at the top of the page will you please explain all of the markings upon it stating what it is and in your answer call the figures along with your explanation of them so that the record will show what you are referring to?

A. It is a section through—it is a section through, you call this the flying bridge rail.

273 Q. Please call the figures and tell what they refer to commencing at the top?

A. The top is $6\frac{1}{4} \times 2\frac{1}{2}$ inch wood rail and there is a $4 \times \frac{7}{8}$ wood block, piece of timber, and there is the sides $\frac{7}{8}$ T. and G., that is the thickness. Then there is the combing at the bottom about $3\frac{1}{2}$ inches deep by $2\frac{1}{2}$ wide; this dimension shows the height of the rail, $3.2\frac{1}{2}$ inches the height from the deck, 8 inches gives the distance to the covering board.

274 Q. That figure is what?

A. I gave you that, $3\frac{1}{2} \times 2\frac{1}{2}$ combing.

275 Q. Now referring to the figure about the middle of the page on the lefthand side of it?

A. It is a little view of the end of the light screen in relation to the nosing at the forward end of the bridge. This is a note in conjunction with this.

276 Q. The one you are referring to is the little left hand one, little drawing on the left of the page about the centre of it? A. Yes.

277 Q. That shows what?

A. It is the height of the light screen from the deck.

278 Q. Now give us the figures?

A. Nine and a half inches shows the thickness of the light screen; one and a quarter in this note here is the end of the screen to the nosing at the forward end of bridge twelve inches.

279 Q. What light screen is that you are referring to?

A. This one here (indicating on plan).

280 Q. On what deck is that?

A. I will just look at this other plan.

281 Q. Now referring to blue-print, identification 5-5?
A. Called the chart-room deck.

282 Q. What is the height of the light screen above the chart-room deck?

A. I have got the dimension, nine and a half, that is the top of the screen, the top of the base board to the top of the deck and the baseboard is one and a quarter inches thick.

283 Q. This writing on the right-hand side right under the figure you have just been referring to is what?

A. That is a little note giving the relation of the end of the screen to the nosing at the end of the chart-room deck.

284 Q. What was the distance to the nosing at the end of the chart-room deck? A. Twelve inches.

285 Q. You might go back to the first drawing, the upper part of C. V. 12, and mark that 12.1 in a circle, at the side of it, 12 with a small 1 in a circle, at the side of it. (Witness complies.) Now, referring to the figure 12.1, indicate on the blue-print where 12.1 would appear on the blue-print?

A. Either port or starboard side.

286 Q. Will you mark 12.1 to correspond with that 12.1, so that this bluee-print will show where the figures are you have been explaining?

A. It would be anywhere on this bridge, I cannot tell where I took it, I cannot indicate its position, it is a section through that bridge, this runs all the way round, this is just a cut through it.

MR. BOGLE: This portion off to the left would be—

THE WITNESS: It is practically the same construction.

287 Q. Then put 12.1, right along in there. (Witness complies.)

MR. BOGLE: Better draw a line through it.

Q. (Contd.) At this little figure at the left hand part of the page, about the middle of it, mark that 12.2 in a circle. (Witness complies.) Now, indicate on the blue-print where 12.2, will be?

A. It would be either here or here (indicating on blue-print 5-5).

289 Q. Just mark 12.2, to show. (Witness complies.) Now mark the writing here "End of screen to nosing," and so forth, 12.3,? (Witness complies.) Now make a corresponding number on the blue-print for the corresponding position on that—that writing?

A. I will put it under here, that is where it is, I cannot get that in small enough.

290 Q. Make an arrow and draw it off. (Witness complies.) Now referring to the drawing on the right-hand side of the page C. V. 12, about the middle of the page, state what that is?

A. That is a sketch of a light screen giving the dimensions.

291 Q. Commence with the figures at the top, calling the figures and explaining each one?

A. 15 3-16ths is the width of the after end of the light screen.

292 Q. On what deck?

A. On the chart-room deck, both screens are the same.

293 Q. Go right ahead and explain all the figures you have got in connection with it?

A. I will give you the widths first; fourteen inches is the width inside the light screen, $5\frac{1}{2}$ is the width at the forward end, the inside width I should say, the forward end of the base board of the light screen $4\frac{1}{2}$ inches.

MR. BOGLE: Which light screen?

A. Any light screen, they are all similar.

MR. BOGLE: The $5\frac{1}{2}$ inches is the width of the shape of that screen as it sits upon the deck?

A. It is the width inside; $4\frac{1}{2}$ inches is the width of the block at the forward end of the light screen, and it is $2\frac{1}{2}$ inches thick, the total length of the light screen is $3.9\frac{1}{4}$ inches outside, the vertical board is 1 inch thick; 9 inches is the length from the after end of the screen to the straight part of the base board and 18 inches is the length of the straight part of the base board from the forward end. The length inside the screen is $3.5\frac{3}{4}$ inches.

294 Q. That means the length between the inside of the backboard to the inside of the block?

A. To the inside of the block, you are right.

295 Q. Please mark that 12.4, in a circle. (Witness complies.) Mark the figure 12.4, as you have just described from your book on the blue-print, (5-5). (Witness complies.) Now, the figure on bottom of page C. V. 12, on the right-hand side, that you may mark now C. V. 12.5. That represents what?

A. It is an elevation of the forward end of the screen.

294 A. Explain the figures that are upon it?

A. The base board of the screen $1\frac{1}{4}$ and 15 inches is the dimension from the top of the base board to the top of the screen.

297 Q. Let us make this next page C. V. 13, in a circle, if that has anything to do with the Strathalbryn? (Witness complies.) Generally, what does that represent?

A. That is a cross-section of the ship anywhere, and the bridges, cross-section to show the different decks.

298 Q. Commence at the top and state what the figures are, what they stand for and with reference to the particular deck or bridge as you go down?

A. This here is the flying bridge deck here, that is the top.

299 Q. Mark the flying bridge deck 13.1, in a circle. (Witness complies.) Now, give us a description?

A. This dimension, 46 feet, is from the inside to the inside of the wood rail, like a wood curtain all the way round the bridge deck; $3.2\frac{1}{2}$ is the height of the wood rail, and on the top of that is the wood rail $6.2\frac{1}{2}$ inches.

MR. BOGLE: Is it necessary to get all this?

300 Q. Drop down to the next deck below this, that is what deck? A. The chart-room deck.

301 Q. Now mark the chart-room deck 13.3, in a circle. (Witness complies.)

A. I will put it in a line here.

302 Q. And that corresponds with this blue-print. There is some writing there has been referred to?

A. 13.2, would be—(Witness marks blue-print). (The witness marked 13.1, opposite the flying bridge, and 13.2, opposite the chart-room.)

303 Q. Please give us the meaning of the figures you have on the chart-room bridge deck?

A. There is the detail of the construction, is similar to that 12.1, port and starboard is, light screen out board of that and this shows the construction of the light screen; this is the wood work all round the deck supporting this.

304 Q. You say this is the wood work, what do you refer to when you say this is the wood work, the perpendicular part?

A. Yes, supporting the rail.

305 Q. The part between the two long lines perpendicular? A. Yes.

306 Q. When you referred to the outboard edge of the screen you said—What is this writing here?

A. To the inside of this wood work here is $46.2\frac{5}{8}$ inches across the ship, and the inside to the inside of the light screen is $46.6\frac{3}{4}$ inches.

307 Q. Now, the distance $46.6\frac{3}{4}$ is from the inside—is from the outside rather—side of the light screen board that is against this railing across the ship to the outside of the screen board that is up against the railing? A. Yes.

308 Q. That distance is $46.6\frac{3}{4}$ inches? A. Yes.

309 Q. Explain how you got that measurement, what you did?

A. Well, there was a door made in this place here (indicating).

310 Q. Call it by the name?

A. The bridge side was hinged and the light screen was fastened to that.

311 Q. Fastened to the door?

A. Yes. And I opened both those doors, both port and starboard and stretched my tape line right across, took that dimension very carefully; this whole thing swung you see, and I opened that and could get the exact cut of the wood you see, and measure the thickness of the wood also.

313 Q. Here is a dimension 5×3 ?

- A. That is the size of the decking, size of the planks, 5 wide, 3 thick.
- 314 Q. What is this number?
A. That is the depth of this covering board.
- 315 Q. What is the depth of it? A. One inch.
- 316 Q. Here is the figure 8, what is that?
A. That is the width of the covering board.
- 317 Q. Here is "1½," that refers to inches? A. Yes.
- 318 Q. Figure "8" is inches, and "1½" is inches?
A. Yes.
- 319 Q. What is that (indicating)?
A. The distance from the outside of the deck plank-ing to the edge of the covering board; that covering board is 1 inch thick and 8 wide.
- 320 Q. The light screen is how many inches above the covering board?
A. I have got it 9½ inches above the deck, the covering board is 1 inch thick, that would make it 9½ inches, that is on this sketch here.
- 321 Q. When you refer to "This sketch here" you refer to 12.2? A. Yes.
- 322 Q. On the sketch 13.2, the shape of the light screen is not depicted?
A. No, it would have conflicted too much and I made a separate little detail.
- 323 Q. That separate little detail is 12.4 and 12.5?
A. Yes.
- 324 Q. Did you notice any iron bracket in the light screen? A. Yes.
- 325 Q. Did you notice where that iron bracket came in the light screen with reference to another feature of the light screen?
A. It was in this portion here where the lamp would naturally rest.
- 326 Q. State whether or not there was any opening in the vicinity of the iron bracket in the light screen?
A. As far as I can remember there was a small hole probably about 4 inches diameter.
- 327 Q. And that small hand hole was positioned how with reference to the iron bracket?
A. I just cannot recollect exactly—close to it.
- 328 Q. Do you know the purpose of that small hole?

A. It was to allow you to get at some portion of the lamp, that was the idea; I could not see the lamp, the lamp I was told was in Tacoma.

329 Q. What is your recollection as to the position of that exactly with respect to the iron bracket?

A. It was close to it, but I am not quite certain as to just the exact relation to the bracket.

330 Q. You did not make any sketch of the bracket, did you, on that drawing 12.3?

A. No, because I was more particular in getting this block of the screen; I got the exact location of the screen and made this detail of the block and this was principally the dimension I was after, from this block here to the block on the other side.

MR. BOGLE: Which block do you mean?

A. (Contind.) This block at the forward end of the screen.

331 Q. Referring to drawing 12? A. Yes.

332 Q. What distance do you say you were particular to get?

A. The distance from this side of the screen to the opposite side of the ship, and a sketch of the bracket giving the other dimensions.

333 Q. In fact you were particular about all your dimensions, were not you? A. Yes.

334 Q. Now the rail shown in figure 13.2, corresponds with in detail, what figure?

A. 12.1, there is the rail, there is the block supporting it, there is the $\frac{7}{8}$ ths tongue and groove, here is the covering board, I haven't shown on this, 13.2, the detail of this combing which is shown on 12.1.

MR. HAYDEN: Do you see any other figures you want questions about as far as this 13.2; I think it would be better to question about these as we go along, it would be so much easier to follow the testimony.

MR. BOGLE: How many more are there?

THE WITNESS: This is a few of the book, this is only a very rough sketch, I don't as a rule keep them when once embodied in a drawing, when you put them in a book with other data——

335 Q. Here is a figure 7.5, between 13.1, and 13.2, running perpendicular?

A. That is the height from the wood deck, it is the height from the top of the wood deck on the chartroom deck to the heel of the beam on the flying-bridge deck.

336 Q. What is this where I am drawing my hand through, this section?

A. This shows the deck below.

337 Q. The deck below the chart-room deck?

A. We call that the cabin deck.

338 Q. Will you mark the cabin deck 13.3, in a circle, and put the corresponding mark on this blue-print. (Witness complies.) Now, please explain your figures starting from the bottom with 13.2 down to 13.3?

A. This gives the size of the angle-iron supporting this deck, 3x3, and the frame at the side is 3x3 angle connected to the beam above by an 18 inch bracket, on the out board there is a covering angle 4x4, structural details; this is the steel bulwark on this deck.

339 Q. When you refer to this, mark the object you refer to as the top of the bulwark rail, write, "Top of bulwark rail," and connect it with an arrow. (Witness complies.) What is the distance between the beams?

A. Will you excuse me a moment. This is the deck gunwale bar.

340 Q. Have you got the height between 13.3, and 13.2?

A. Yes, it is 7' 10", I have got 7.10 from the heel of the gunwale bar to the angle of the beam and a quarter inch would be the thickness of the plate. This thickness would be from beam to beam, from the heel of that beam to the heel of that beam; this is from the heel of the bar which is on the top of the plate, and the other from the heel of the beam which is on the bottom of the plate, so these two dimensions tally.

341 Q. What is this 36.2?

A. The height of the bulwark rail above the deck, $36\frac{1}{2}$.

342 Q. That is above the cabin deck?

A. Above the cabin deck, this shows the thickness of the centre 5-16ths.

343 Q. I see here—what are these figures?

A. $48.10\frac{3}{4}$, from the heel of the bulwark angle on the port side to the heel of the bulwark angle on the starboard side.

34 Q. And the heel of the bulwark angle is the top of the bulwark rail that is round the cabin deck?

A. That is right.

345 Q. That is from the outside? A. Yes.

346 Q. Now what is this line I have across here taken where I draw my finger?

A. The upper deck, or as I think as you have designated it "the cargo" deck.

347 Q. Mark that 13.4, in a circle. (Witness complies.) And indicate on the blue-print the deck that 13.4, refers to. (Witness complies.) Now, commencing with the cabin deck 13.3, give us the measurement figures that show the measurements between 13.4, and 13.3?

A. It is formed up, vertically 7.6, I also took it there $7.6\frac{1}{2}$; this cabin deck is narrower than the cargo deck, this is on a rake.

348 Q. 7.6 is between what points?

A. Between the heel of the beams in each case.

349 Q. I see the figures just under 13.3, $49\frac{1}{2}$, is that it?

A. Yes, that is heel to heel, or bulkhead bounding bars, that is all bulkhead, all bulkhead all the way round from the heel on the port to the heel on the starboard side taken at the cabin deck is $49.1\frac{1}{2}$ inches.

360 Q. Now, I see under 13.4, $51.1\frac{1}{4}$ inches, what is that measurement?

A. That is from the heel of the deck bar on the port side to the heel of the deck gunwale bar on the starboard side taken at the bridge front.

351 Q. I see $48.67\frac{7}{8}$ ths and right under it $46.63\frac{3}{4}$, and under is $2-0\frac{1}{8}$, what are those figures?

- A. It has nothing to do with the sketch, just some little side calculation, it is not a dimension of any part of the sketch, some little calculation.
- 352 Q. I see up here just under 13.1, the figures 46.6 $\frac{3}{4}$ under the 6 there is a 9, and under the 9 a line is drawn and then there is 47.3 $\frac{3}{4}$, then a bracket apparently and opposite that 46.10?
- A. This is a little calculation I made, 46.6 $\frac{3}{4}$ is this dimension from the inside of the screen to the inside of the screen different sides of the ship.
- 353 Q. On what bridge?
- A. On the chart-room deck; what I have been trying to get at there was the exact dimension from the outboard side of the block to the outboard side of the block in front of the screen on the different sides of the boat, 4 $\frac{1}{2}$ inches each side give me that distance—across the ship, I make that 47 $\frac{1}{4}$ inches.
- 35 Q. What is the 46.10 up there?
- A. After I put that dimension on the blue-print I put that there evidently for comparison with what I made up here.
- 355 Q. To compare with the 47.3 $\frac{3}{4}$?
- A. Yes. This 46.10 is not my dimension at all.
- 356 Q. That 46.10 then was, there is the same 46.10?
- A. I did not put this here while I was making the sketch, this is some days afterwards, after I had put it on the print.
- 357 Q. After you had put it on the print between the blocks on forward end of the screens?
- A. Yes, that is not my figure please understand.
- 358 Q. Now then referring now to the blue-print and the line dropped down to the light screen to the line written on the arrow, between these lines dropped down from the light screen to the line on which is written "46.10, between blocks on forward end of screens," is that, or is not that correct according to your figures?
- A. No, it is not; I put this thing on here but there was no dimension; I was told to leave that dimension off, that dimension would be given to me afterwards, therefore this is put in the blue-print with ink after that was made; you can see that (indicat-

ing the words) is all in white, and this (indicating figures) is all in black.

359 Q. What did you mean to indicate when you dropped the line down from this light screen?

A. I meant to give the distance from the outboard side of the block, the forward end of the screens on both sides of the ship, get that distance right across the boat, although in my wording there I should have said between the outboard end of block, to my mind I thought that plain enough "between blocks." This block is really part of the light screens between the outside edges.

360 Q. Then according to your measurements this 46.10 should be 47.3 $\frac{3}{4}$?

A. Yes. That is from between the blocks, that 47. I take it would correspond with the flame of the lamp, that idea of the block is to prevent the flame it is the limit of the flame, the flame cannot show inside of that, the flame could be further out but you could not see the flame if it was any further in.

361 Q. Here is something up here (indicating on sketch)?

A. That is the electric lamp on the flying bridge; just made a little sketch and took the dimension of the inside of the screen, 3 of metal and 8 inches of glass, that is this on the top that was there.

362 Q. Mark that lamp 13-5, in a circle. (Witness complies.) Three inches is the metal base of the lamp, and 8 inches the height of the glass?

A. Yes, clear glass, it was not really necessary that was not the light in question, this is the top lamp of all.

363 Q. Mark this page please C. V. 14, in a circle. (Witness complies.)

Q. (Continued.) State what that is?

A. It is just a very rough view of the front of the bridge.

364 Q. Now mark this page C. V. 15, in a circle. (Witness complies.)

Q. (Continued) What does that represent generally?

A. That is a plan-view from the bridge front to the

forecastle front giving the widths inside the bulwark rail, and also the widths for the deck.

365 Q. And that is the cargo deck that you are referring to now? A. Yes.

366 Q. The upper part of the picture, what is that line across the upper part of the picture?

A. That is the forecastle front, bulkhead.

367 Q. You might just write, "Forecastle front" on it, right on that line I think. (Witness complies.)

Q. (Continued) What is this line across the bottom of the page?

A. That is the bridge front.

368 Q. You have got "Bridge front," written on that, haven't you? A. Yes.

369 Q. Now commencing with the figures on the left-hand side, commencing with 5' 9", and tell what they are as you go along?

A. 5' 9" gives the distance from the bridge front to the first bulwark support; 12 feet is the next bulwark support; 12 to the next one; and 12. I had considerable difficulty in getting these; all this deck if you remember was piled up with miscellaneous lumber and I had to get it cleared away to get down here. I took these widths from the inside to the inside; the lengths between——

370 Q. Give me the lengths between 4 and 5?

A. 21.4½ inches, all practically 12 feet apart.

371 Q. The other distances between, the figures from 5 up to 8 are the distances between the bulwark supports as shown on the tracing?

A. Yes.

372 Q. Your figures 101.9½, what does that mean?

A. The distance from the bridge front bulwark to the forecastle bulkhead.

373 Q. I see here above the bridge front, 48.7 inches?

A. Inside bulbs.

374 Q. Now explain that please?

A. You understand the construction of these bulwarks?

375 Q. You have referred to that in connection with C. V. 10?

A. Yes. Owing to the deck being covered with

lumber here, I got the width you see, this was quite a distance off, I got the width in each case from the inside of the bulb-angle at the top of the bulwark one side to a corresponding point of the other.

376 Q. Then 48 ft. 7 ins. represents the distance across the ship from the inside of the bulb-angle of the rail on the cargo deck?

A. That is right.

377 Q. That is the rail on the port side and the rail on the starboard side? A. That is right.

378 Q. Five feet nine and a half inches forward of the bridge front? A. Yes.

379 Q. Let me put a general question: at figures 2, 3, 4, 5, 6, 7, and 8, the figures, the measurements, were taken across the deck in a similar manner to this at figure "1" where you got 48.7, and those measurements are represented all of them in this commencing with figure 2 in the figures as follows: 48' 5½"; 48' 2"; 47' 9¾"; 47' 4"; 46' 8"; 45' 8¾"; 43' 11"?

A. Yes, those are all there.

380 Q. Have you got the distance across the forecastle front?

A. Yes, here it is, 40 ft. 5¼ ins. but not at the rail, that is down on the deck, I could get at it there, the deck was clear, the men had to get into their living quarters; I could stretch my tape-line to here (indicating); the deck being lumbered up with miscellaneous stuff, to get the correct shape of the deck I had to take the distance between these bulbs and add the other dimensions; but at the forecastle deck I could get the exact width.

381 Q. Here is 40.5¼?

A. That is on the forecastle deck, above that again; if you will refer to that previously (indicating on blue-print) 40.5¼ wide across this point (indicating on blue-print).

382 Q. Mark 40.5¼ on the blue-print in pencil to indicate the point you refer to? (Witness complies.)

A. This dimension was taken up at this forecastle head.

383 Q. Mark that dimension there then across. (Witness complies.)

Q. (Continued) You were going to explain these small figures in here just below 48.7, on C. V. 15?

A. You see the construction here (indicating).

384 Q. You are referring to C. V. 10?

A. Yes, the whole of this cargo deck had lumber and stuff here and it was impossible to stretch the tape-line and get the width on the deck; this dimension you have already had explained to you gives the distance from this bulb here to this bulb there; to get the width of the deck I dropped a plumb-line down from the inside of this bulb and measured it to the heel of this deck angle.

385 Q. Saw that your plumb would go on to the deck below and measured from that point outward?

A. Yes; I went across to the port side and did the same as on the starboard side to get the width of the deck below, I could not stretch a tape-line here owing to the whole deck being covered up; on the starboard side $15\frac{5}{8}$ ths, and on the port $15\frac{3}{8}$ ths, starboard and port added in each case.

386 Q. To get the width of the deck you would take the sum of $15\frac{5}{8}$ ths and $15\frac{3}{8}$ ths and add to the 48.7, to get the width of the deck itself?

A. Yes, I had to get the deck outline. This is a sketch of a bollard, timber-head, I think you people call it, the bitts; this is the bitt located just forward of the bridge front

387 Q. Please mark that C. V. 16, in a circle. (Witness complies.)

389 Q. The figure 8' 2", represents what?

A. The distance of the bollard forward of the bridge front.

390 Q. That is the equivalent to what we call "bitts"?

A. Yes, some people call them timber-heads. there are various names for them.

391 Q. What does the figure $21\frac{1}{2}$ " represent?

A. Twenty-one and a half inches the distance the bollard is set inboard from the side of the ship on the deck.

BY MR. BOGLE: Not the inside of the bulwark?

A. No, couple of feet from the ship's side, the lumber was not interfering very much, you could get down between the bulb-angles.

BY MR. HAYDEN:

392 Q. And the length of the bollard is how much?

A. Five feet five inches.

393 Q. Eighteen inches wide?

A. Yes, and two feet above the deck.

394 Q. The two feet above the deck is the height of the standards? A. Yes.

395 Q. These two round things represent what?

A. They are the part of the bollards you make your lines fast to; there is a hole there for the men to put a rope through and the rope comes through there; I don't know it had any great bearing on it.

396 Q. Where was that hole?

A. In the bulwark plate, it was 12 inches long and 9 inches deep.

397 Q. How far from the bridge front ?

A. Two feet three.

398 Q. And the line comes through there to make fast to the bollard? A. Yes.

(It is agreed between Counsel that the pages referred to by the witness, Cameron, in his depositions, and numbered C. V. 1 to C. V. 16 inclusive, shall be cut out of his note-book to be placed in Court, but subject to the objection of Mr. Bogle as to their introduction as exhibits. Pages referred to, cut from note-book and marked, "Ex. C. V. 1 to 16, 30 Sept. '13 L. J. S.", respectively.)

Mr. Hayden: What I want to do now is to introduce the blue-print. Introduced by agreement of the parties, blue-print entitled "Claimants identification, 5-5."

399 Q. Now referring to this blue-print, "Claimants exhibit 5-5," have you compared the figures on that with your notes?

A. All except that 46'-10".

MR. HAYDEN: In introducing that in evidence I do so subject to the explanation of the witness as to the measurement 46'-10". You have called for

the original tracing; we produce the original tracing as well as the original blue-print.

MR. BOGLE: Yes.

MR. HAYDEN: In response to that demand I produce the original tracing marked, "Libellants identification ex. 14, January 14, 1913, G. H. C., N. P."; and offer that in evidence, asking Mr. Cameron if that is the tracing this blue-print is made from?

THE WITNESS: Yes, that is the tracing.

400 Q. Do you think of anything else in connection with the tracing, the blue-print, or figures, these various exhibits that have been introduced and verified by you,—and your measurements of the ship,—that has a bearing on this matter, as to the measurements of that ship; which you have not yet testified to?

A. I don't understand the question.

401 Q. Have you got any further explanation to make, anything else you want to say in connection with these measurements? A. No.

402 Q. What I want to do is to get all the information there is about it? A. Yes.

CROSS-EXAMINED BY MR. BOGLE.

403 Q. When did you make these various measurements shown on Libellants exhibits C. V. 1 down to 16?

A. I cannot remember the date, just after the Strathalbyn went into dry-dock.

404 Q. Were those measurements made prior to the date on which Mr. Walker, Mr. Jack, and Captain Logan made their measurements?

A. Yes, as far as I remember.

405 Q. They were made at the request of Messrs. Huffer & Hayden?

A. As far as I remember we had a letter from Mr. Hayden, I remember his name.

406 Q. Mr Hayden represents the Strathalbyn in this proceeding?

A. I think there were two or three names.

MR. HAYDEN: Do you remember who the letter was to?

A. I cannot remember who it was addressed to.

407 Q. Not addressed to you?

A. Oh, no, passed up to me.

BY MR. BOGLE:

408 Q. Do you remember what measurements Mr. Hayden's firm requested to have made?

MR. HAYDEN: I will let you see a copy of the letter if you want to.

MR. BOGLE: It might save my asking him a lot of questions to find out why they were made and at whose request.

MR. HAYDEN: I admit on the record I wrote to Mr. Jack to have the measurements of the ship made.

MR. BOGLE: I would rather get this from the witness.

MR. HAYDEN: I have not any objection to your doing it.

(The witness did not answer the last question.)

409 Q. Were all of these measurements made in accordance with these instructions?

A. No, most of these dimensions were constructional, I had to make them to get the outlines; certain measurements specified in connection with the light screen, I cannot remember the wording of the letter.

410 Q. Were the dimensions which were to be made specified, or did the letter state the purpose of having the measurements made?

A. No, that is as far as I can remember, as far as I remember, it was certain dimensions.

MR. HAYDEN: I want to ask the privilege of introducing in evidence the letter which I wrote in connection with these measurements, or, in case the examination is to proceed about that letter; on that understanding I won't object to the question as being immaterial, otherwise I wish to object to it as immaterial.

411 Q. Have you the letter with you, Mr. Cameron?

A. No, the letter was not addressed to me, the letter was not addressed to me, when the job was fin-

ished I sent it back; I got my orders through my superior.

412 Q. Do you remember the date of this letter approximately? A. No, I don't.

413 Q. Do you remember how long before these measurements were taken by Mr. Jack and Mr. Walker? A. No, I don't.

414 Q. Do you remember whether it was a matter of two weeks or more?

A. I don't think it was as long as that, as far as I remember just a short while, I cannot remember, it was before the time you speak of.

415 Q. Did you ever make a copy of these notes and furnish them to your superior, or to Mr. Hayden's firm?

A. No, sir, except you call this a copy, the notes are embodied in this plan.

416 Q. Is this tracing marked "Libellants identification ex. 14, January 14, 1913," made by you in accordance with that request? A. Yes.

417 Q. From your figures? A. Yes.

418 Q. Any of the figures on that tracing furnished to you by Mr. Jack? A. Not on the tracing.

MR. BOGLE: I shall object to the introduction of those notes on the ground they were made at the request of the libellant without any notice to us, or without any opportunity of appearing and verifying the notes, and on the ground that the Proctors in this case agreed that the measurements of the Strathalbyn should be taken by two Surveyors, one to be appointed by each Proctor, and that a survey was made and measurements were taken in accordance with the stipulation, at which both sides were represented.

MR. HAYDEN: I want to say right there that these measurements are introduced in evidence in accordance with a demand made by the firm of Bogle & Bogle, are all the original measurements of this ship, or in the possession of anybody we might be able to get at.

MR. BOGLE: I think the only demand ever made was the production of the original notes, in accord-

ance with the survey, and the measurements made in accordance with our agreement by Jack & Walker, or the notes made by the draughtsman in connection with that agreement and survey.

419 Q. Who was with you assisting you in making these measurements? A. Mr. Green.

420 Q. He is in the employ of the B. C. Marine Railway? A. Yes.

421 Q. You are in the employ of the B. C. Marine Railway? A. Yes.

422 Q. And the British Columbia Marine Railway had the job of repairing the Steamship Strathalbyn? A. Yes, we got the job.

423 Q. Now Mr. Cameron, referring to this tracing, "Libellants identification, ex. 14," were the measurements you made, in this tracing, and placed upon this tracing, and this tracing, made prior to the date the survey was made by Jack and Walker, February 19?

A. I cannot just remember the date I am sure.

424 Q. You don't remember whether——

A. I don't remember the date; that was of course after I made my sketches, took me some little time to lay it out and make the prints.

425 Q. This tracing was made entirely from your notes? A. I made the tracing from my notes.

426 Q. Were all of these notations and figures that are on here at the present time made by you prior to the time Mr. Jack furnished you with a copy of his notes, I mean irrespective of his notes?

A. Yes; as I told you I cannot just remember the dates; I first made the original drawing and then traced and then printed it—several days work.

427 Q. What I am getting at, this was made by you without reference to Mr. Jack's notes?

A. No, Mr. Jack was round there all the time I was making it, in and out of the office.

428 Q. At the time you made this tracing?

A. Yes, I was several days.

49 Q. Did he tell you what figures to put on here, did he tell you to put in this figure between blocks, I mean the wording? A. No, he did not.

420 Q. In this your own figure "48'-67/8'"? A. Yes.

431 Q. What caused you to take this cross-section eight feet forward of the bridge front?

A. Because you could not take it at the bridge front; I wanted to show the bridge front, so I took it at eight feet from the bridge front.

432 Q. Just an arbitrary figure?

A. Just an arbitrary figure, as the most convenient place.

433 Q. I want you to explain why you have not put in the place for this measurement between blocks and the forward end of screens?

A. Because I understood that was the measurement particularly wanted.

434 Q. Who did you understand that from?

A. From the letter.

435 Q. That letter mentioned that was what they particularly wanted to get?

MR. HAYDEN: That is objected to as not being the best evidence; you can demand the production of the letter and I will produce it.

MR. BOGLE: I will demand the production of the letter, produce it now.

MR. HAYDEN: I haven't it here with me.

436 Q. In the absence of the letter, I won't have the opportunity of examining this witness when I have got the letter, I merely want to find out where he got his information from in the making of this tracing. That is the reason you left the space for that measurement, that was one of the measurements was particularly desired?

A. Mr. Jack gave me to understand that dimension would be agreed upon between the Surveyors themselves.

437 Q. What Surveyors?

A. The various surveyors who measured it; Mr. Jack, Mr. Walker, and several others.

438 Q. The measurement between the blocks and the forward end of the screens?

A. Same dimension, I call it this dimension here, between blocks, from the outside of this block to the outside of that block (indicating).

439 Q. Did you understand from Mr. Jack that was the dimension to be agreed upon by the surveyors?

A. He was to give me some dimension which was to be agreed upon to check it up.

440 Q. Did you understand that was to be the distance between the blocks and the forward end of the screens?

A. As far as I remember there was no mention made of blocks or any particular part of the screen, Mr. Jack did not particularize what part of the screen was to be taken.

441 Q. You must have got that information some place? A. That is my own information.

442 Q. You blocked that without any request from anybody?

A. I did not take any dictation from anybody, that is my own, I put that there voluntarily.

443 Q. What did you mean when you stated Mr. Jack requested you to—either Mr. Jack, or the request in this letter was you should leave a space for that measurement?

A. A measurement in connection with the screen, there is no mention in that letter; I cannot remember without seeing the letter, does not mention any particular part of the screen, but in sizing up that as a man round a ship would do, I would know it was a dimension that would be wanted, that was the dimension inboard of which the light would not show, the extreme inboard limit of the light.

444 Q. That was the only dimension in connection with the light screen, between the lights or the visibility of the lights?

A. Out board of that, couldn't go inboard; I put that on on my own initiative, this notation between blocks and the forward end of screens.

445 Q. When you stated that information was particularly desired in the letter you were mistaken about that?

A. Without seeing the letter I cannot remember just the wording of it, there was certain information required, distances and heights in connection with the light screen, and as far as this drawing

was concerned I knew that would be a figure that was essential. I knew the light could not show inside of that block.

446 Q. Did Mr. Jack ask you to leave that dimension blank? A. Yes.

447 Q. Was that request made after he had seen this tracing?

A. I think it was while I was working on it.

448 Q. Was it far enough along so that you had inked in words?

A. No; I cannot remember just what stage the drawing was in.

449 Q. Did Mr. Jack request you to leave that dimension blank at any time after this tracing was completed?

A. I would have had it in if I had got instructions.

450 Q. Did he request that you leave the figures blank at any time after this tracing was completed and had been inspected by him?

A. I didn't just get that question.

451 Q. You prepared this tracing and left the dimension, the distance between blocks and the forward end of the screens blank? A. Yes.

452 Q. I ask you if Mr. Jack requested you to leave that blank after this tracing had been completed?

A. No, not after it had been completed. I would have put that dimension in.

453 Q. Not if Mr. Jack requested you to leave it blank?

A. If the tracing was completed.

454 Q. The tracing is completed now and it is not in?

A. I mean as complete as it is now.

455 Q. Did he ever make that request of you after the tracing had been so far completed that he could tell what this line marked, "Between blocks on forward end of screens," was?

A. I don't know he paid sufficient attention to where I had my dimension lines from.

456 Q. The blue-print made from that tracing, introduced as Claimants identification, 5-5, the white figures on the blue-print are the same figures that appear on the tracing? A. That is correct.

457 Q. And the ink figures that appear on the blue-

print were inserted by you, were they, with the exception of the figures "46'-10'"?

A. These are all my own figures as far as I can see, very similar to mine, check up, of course it is possible to copy anything, any draughtsman would take any draught or print and give him time make a copy of it. I inserted some of the figures, some of the figures in after the print was made.

458 Q. What I am trying to get at is simply this: which of the ink figures on the blue-print were inserted by you?

A. As far as I can see most of them, all of them in fact inserted by me.

459 Q. Does that include the figures "46'-10'"?

A. Yes.

460 Q. You inserted that? A. Yes.

461 Q. Who gave you that figure? A. Mr. Jack.

462 Q. Did he give you any other figures to be inserted on this blue-print? A. No.

463 Q. All of the other figures on the blue-print are your own figures?

A. Of course I was doing it for Mr. Jack.

464 Q. I wish you would explain why it was all of the figures were inserted by you from your notes with the exception of the one figure "46'-10'"?

A. My instructions from Mr. Jack was that the figure in connection with the light screens, the distance between light screens, would be given to me by him after the surveyors had made their measurements.

465 Q. Did you ever see Mr. Jack's notes?

A. I can't remember just what form they were in, he had a book I suppose, or a note on a piece of paper.

466 Q. Did you check this blue-print with Mr. Jack from his notes?

A. He was round all the time I was making the drawings.

467 Q. What I want to get at is whether this blue-print was checked with Mr. Jack's notes, if you know, in your presence? A. I cannot remember.

468 Q. This blue-print then represents your measure-

ments taken by you as correct, except you say this figure should be 47-3 $\frac{3}{4}$ inches, the figure "46'-10'"? A. Yes.

469 Q. I think that is correct?

A. Forty-seven three and three-quarter inches.

MR. HAYDEN: Forty-seven seven and three-quarters.

470 Q. Mr. Cameron, do you remember the approximate date when that blue-print was completed in its present form when those figures were put in?

A. No, I cannot, I cannot remember just exactly.

471 Q. Can you remember just approximately with reference to the date of the survey made by Mr. Walker and Mr. Jack? A. Some days afterwards.

472 Q. Within a week afterwards?

A. I think within a week.

473 Q. When it was finished did you turn the papers over to Mr. Jack, the tracing and blue-print?

A. I gave them to my immediate superior for Mr. Jack, I understood it was all for Mr. Jack.

474 Q. Were other copies made of that blue-print taken from this tracing? A. I cannot say how many.

475 Q. Could you tell me approximately how many?

A. No, I don't remember.

476 Q. Were there 2, 3, or 4?

A. Two I know, may have been more, I don't remember.

477 Q. Do you remember whether you were instructed as to the number you were to make?

A. No, I don't. I don't know that I got any special instructions.

478 Q. You turned them over to your immediate superior. Did you have any information or know what happened to them after that?

A. I don't know I bothered my head; that was the end of it as far as I was concerned.

479 Q. Did Mr. Logan ever make a request to you for copies of this blue-print? A. No.

480 Q. Did Mr. Frank Walker ever make a request to you for copies of this blue-print. A. No.

481 Q. You had no request for a copy of this blue-print

after it passed out of your possession into the hands of your superior?

A. I cannot remember any particular request.

482 Q. Do you remember any request?

A. I don't remember. I am not clear upon that point, whether any request for copies was made.

483 Q. Do you know what happened to the blue-print?

A. I understood it was given to Mr. Jack.

484 Q. When were the repairs to the Strathalbyn completed approximately, what time?

A. I am not sure whether it was in March or April.

485 Q. Do you know when the Strathalbyn sailed after the collision? A. I don't know.

486 Q. The tracing which you made for repairs to the Strathalbyn were made subsequent to this tracing and blue-print, you stated you made other measurements and a tracing for repairs?

MR. HAYDEN: It has nothing to do with this.

A. Yes, for our own use, new plates.

487 Q. You mean your own records in repairing the vessel?

A. When we repair we generally make and keep a new diagram of plates.

488 Q. Referring to exhibit C. V. 1, you stated that this figure in the middle marked "A,"—the windlass,—the figure from which I have drawn a line out and marked with a letter "A," is that the windlass on the forecastle head of the Strathalbyn?

A. It is meant to note the position of the windlass.

489 Q. As you have it here the windlass is approximately in the middle of the forecastle head, is that correct?

A. How do you mean in the middle? The dimensions are given here 16.7.

490 Q. I mean from the middle line?

A. Yes, would be midships on the centre line.

491 Q. Where is the drum of that windlass, could you indicate that?

A. The drum of the windlass—the windlass does not have a drum.

492 Q. I want you to point out where the drum would be?

A. Do you mean where the chain goes over, it is a chain linked to a cable, and the chain comes up over that and into the chain lockers; you mean the gipsy-heads?

492 Q. Where would the gipsy-head be?

A. Somewhere out here (indicating on sketch), probably both sides, I don't remember. I only made this sketch to get the location so when we renewed the deck we could put it back again in the same position.

494 Q. Referring to exhibit C. V. 9, I wish you would state just what that is in a general way?

A. That as far as I remember is a list of all the necessary particulars to make this tracing.

495 Q. Where was this list obtained from, that is where did you get the data that is on this list?

A. That is what I started out to get, this, to lay out this information as called for in the letter, embody it, I thought these items necessary.

496 Q. The different data here was your understanding of what was required by the letter referred to you for attention from Huffner & Hayden—the distance between the outboard edges of the blocks and the forward end of the port and starboard screens, is that the measurement you put on the blue-print and left blank?

A. Yes, that is not the "46'-10'," but that is the dimension where the arrow heads are.

497 Q. That is the dimension marked "46'-10'" on the blue-print, it is the dimension you have got in there; I understand you now to state "46'-10'" is not correct "between blocks on forward end of light screens," it was to comply with this note, exhibit C. V. 9?

A. No, this "46'-10'" was put long after I made this note, this was the first note before I started out to do anything.

498 Q. This information which you made a note of here was the measurement which should be given on the line marked, "Between blocks on forward end of screens," is it not? A. Yes.

499 Q. And that measurement was made by you?

A. Yes.

500 Q. But was not inserted? A. Not inserted.

501 Q. Why?

A. Mr. Jack told me that they would take that dimension together, the different surveyors.

502 Q. And did Mr. Jack assist you in any way in making up the notes on C. V. 9, as to what information would be required?

A. Well, in the letter, whether he gave me any particulars, between him and the letter I understood what was wanted.

503 Q. I don't know whether I quite understood exhibit C. V. 10, the two lines here with the arrows pointed in with the figure, "8," between, as I understood was the support for the bulwark rail?

A. Yes.

504 Q. These supports, what are the dimensions of them? A. 5-9 and 12 feet, and so forth.

505 Q. That is just an iron bar?

A. That is a bulb plate.

506 Q. A few inches in width?

A. Not a few inches. I cannot remember the thickness; probably half an inch or five-eighths, but the bulb would be an inch and a half, that is the width fore and aft, the width of it would be half an inch or five-eighths and the bulb an inch and a half.

507 Q. You, as I understood, dropped a plumb-line from the inward side of this bulwark rail to the deck, would that be inside of this support?

A. Yes, it would be.

508 Q. So that support would necessarily be at a slight angle to support the rail?

A. Yes, it is 18 inches out at the bottom, you see.

509 Q. You refer to the exhibit C. V. 12, and to the drawing marked 12-4 on that exhibit, which purports to be a detail drawing of the light screen; do you remember which light screen you measured on the Strathalbyn?

A. This one here particularly.

510 Q. Please state which you mean, on which side,

do you remember which light screen you measured to get that?

A. The light screens on the chart-room deck.

511 Q. You measured them both, did you?

A. Measured them both; I have a note of one on the flying bridge—screens same as below.

512 Q. You measured all four screens and they were all exactly the same? A. Yes.

513 Q. Were the rails round the flying bridge and the chart-room bridge approximately the same distance from the ends of the respective bridges, across the ship, a line across the ship, that is the distance from the rail of the flying bridge to the end of the bridge, approximately the same?

A. Approximately the same—I am not sure.

514 Q. I wish you would look at this exhibit C. 13, and tell me the width of the flying bridge, you see what I mean? A. The extreme width over all?

515 Q. Yes?

A. According to the note it is 49' 1¾".

516 Q. What would be the width of the chart-room bridge?

A. I have not got that dimension, I have got it to the screen, to this part (indicating).

517 Q. What is the width of the cabin deck?

A. Forty-nine feet one and a half, the heel of the bulkhead bounding bar to the heel of the bulkhead bounding bar on the other side, measured from here to here (indicating).

518 Q. What is this?

A. This is from the rail, bulward rail, extreme width of the bulwark rail, 48' 10¾".

519 Q. You haven't the measurement across at the chart-room there?

A. I haven't that because in laying down the section I have got the width there, width there, and width there (indicating). I have got three points, I just draw a line through and that gives it exactly.

520 Q. Can you tell me from this drawing how much the vessel tumbles in from her main cargo deck at the flying bridge?

A. You mean tumbles in at this point here, the extreme point?

521 Q. Yes, that is the only way you could get the tumble in of the vessel?

A. That would hardly give it. This bottom has a nosing and if you come along here you get the half-round of the other.

522 Q. What I want to get is the tumble in of this line, line of the ship itself from the main deck?

A. I would like to give you that.

MR. HAYDEN: He could give you the tumble-in up here to the cabin deck.

A. (Continued) Yes, I have taken it up here to the next deck and that to the rail, you could not get out here to take that dimension.

523 Q. So from your figures you could not give the tumble-in?

A. Not at that point. I can give it here.

524 Q. That is cargo-deck to the cabin-deck? A. Yes.

525 Q. How much is that?

A. It is half that you see, it is that on either side, $23\frac{3}{4}$, that is $11\frac{7}{8}$ the, that is the tumble-in from the cargo-deck to the cabin-deck.

526 Q. Does that line from the cargo-deck to the cabin-deck give you the line of the superstructure there of the vessel?

A. Yes, must be the fair line of the boat, should be a fair line as I believe it was.

527 Q. This figure here $46-6\frac{3}{4}$ that is to the inside of the outside board of the light screen?

A. I explained that to you in this other, as to this.

528 Q. That is what I mean, the outside and the inside line, the outside of the fore and aft sideboard of the light screen? A. Yes, fore and aft.

529 Q. Did you make any measurement between the brackets of which there has been so much talk?

A. No.

530 Q. Not requested to make that measurement?

A. No.

531 Q. Was not the purpose of having these drawings made to ascertain the centre of the lights, was not that your understanding?

A. To get at the relative position of the two lights.

532 Q. In connection with that you were not requested to make any measurement between the brackets?

A. There was no mention made of brackets although I saw a bracket there that the lamp fastens to.

534 Q. Mr. Hayden asked you about these figures, the lower part of this exhibit,—C. V. 13,—the portion marked C. V. 4; $46-6\frac{3}{4}$, and the figures $2-0\frac{1}{8}$, underneath which is a subtraction of the first two figures; I understood you to say you don't remember now what that was, or the purpose for which it is made?

A. No, I cannot remember just what that was, a little side calculation.

535 Q. At the time you made these measurements did you have in mind there was any question as to whether the lights were obscured?

A. No, I did not.

536 Q. I call attention to Claimants exhibit 5-5 and the figure $48-6\frac{7}{8}$ ths from inside to inside of bulwark rail? A. Yes.

537 Q. And I also call your attention on Libellants exhibit, C. V. 13, drawing 13-2, $46-6\frac{3}{4}$ inside light screen, with those two figures in mind have you any fresh recollection what these calculations were made for, that subtraction?

A. No, it has been something that has just occurred to me and I made a little side subtraction there for my own benefit I suppose.

538 Q. Is it not a subtraction of the distance from the inside to the inside bulwark rail?

A. I would not say it is the same figure, it is that dimension I have been using.

539 Q. It is a subtraction eight feet forward of the superstructure and the distance on the inside to inside fore and aft of the light screens, you don't remember why that was taken? A. No.

MR. HAYDEN: Is not that possibly the fore and aft side-board of the light screens?

THE WITNESS: Yes.

540 Q. Referring to drawing 13-5, on exhibit C. V. 13,

that is the rough draft of the electric light globe?

A. Yes, of the lamp.

541 Q. Where is the electric lamp itself, where would that be placed with respect to this drawing?

A. It would be inside here somewhere, the lamp is shaped like a quadrant.

542 Q. Do you know how far inside of the light screen; you made no measurements except the distance?

A. No, you see that had the actual lamp right there.

543 Q. You didn't measure it?

A. No, I did not take the particulars of the lamp other than that.

544 Q. You don't know whether the centre of that lamp came even with the fore end of the light screens or not?

A. No, I did not take that measurement.

545 Q. On Libellants exhibit C. V. 14, you have made a subtraction of the same $46-6\frac{3}{4}$, which is the distance between the outside of the fore and aft side-board of the light screen—is that correct—and the distance of 48-7, which measurement appears on Claimants exhibit 5-5, as being the measurement between the bulbs at the top of bulwark rail, 5-9 forward of the superstructure; at the time you made this deduction you did not have in mind there was any question about the visibility of that light or possible obstruction to it?

A. I cannot remember when I made that little calculation there, it is some little thing came to my mind, some subtraction I had in mind.

546 Q. When was your attention first called to this measurement of 46-10? A. I don't remember.

547 Q. When I say, called to that measurement, I mean when it was first stated to you that measurement was incorrect? A. I don't remember.

548 Q. I understood you to say you put those figures in at the request of Mr. Jack; was anyone else present when you put them down?

A. He gave me the figure, I just went to the table and put it down myself, no body with me at the time.

549 Q. Did he have his note-book in his hand?

A. I don't remember what he had, might have had a piece of paper or a note-book.

550 Q. Did he state at that time that measurement had been agreed upon by the surveyors?

A. He merely gave me that figure and told me that was the figure; I had been expecting the figure to be given to me.

551 Q. Did you call his attention at that time or any prior time that you had a different figure for that measurement?

A. I don't know I saw him after that to discuss it.

552 Q. Did not it occur to you at that time there had been some mistake?

A. It didn't agree with what I got myself, but it was some figure they had all measured up themselves, the different surveyors were to get the figure, and that was the figure I was to put in there.

553 Q. Did not it occur to you to speak to Mr. Jack at that time and tell him you had obtained a different figure? A. No, I did not want to argue the point.

554 Q. Did you think at that time there was a chance of your being mistaken in your figure and of Mr. Jack being correct?

A. No, I was sure of my figure between the screens.

555 Q. It appears rather odd to me if you knew that figure was incorrect, and still when Mr. Jack gave it to you you made no objection, but placed it on without calling his attention to it?

A. Well, he told me that they had all checked that figure up and he would give me that figure, I just left it blank; then when he gave the figure to me I put in the figure; I did not want to raise any question; whether they understood the dimension to come just exactly where I have my arrow-heads, or not I don't know.

556 Q. What did he say to you when he gave you that figure?

A. Merely gave me the figure and said that was the figure to put in there.

557 Q. On this blue-print? A. Yes.

BY MR. HAYDEN:

558 Q. Referring to exhibit C. V. 9, which is a list of information which you went out to get, did you make that list of information before you made the sketch, I mean this tracing? A. Yes.

559 Q. Did you write the information on the tracing to correspond with the information that you wanted on this C. V. 9?

A. This C. V. 9 is a list of information necessary to get to make the tracing, before I could proceed to make the tracing.

560 Q. You laid out the tracing in accordance with that information?

A. As a result of that before I started out, I made a note of several things I wanted, this is several little notes rather than a result of them.

561 Q. The block in the forward end of the light screen was a natural fixture you would measure to, or would measure upon the ship?

MR. BOGLE: I object to that as cross-examination of your own witness.

MR. HAYDEN: Let the Court decide whether it is cross examination.

(The witness did not answer.)

562 Q. After the delivery of the blue-print and tracing introduced this evening did you ever make another blue-print and tracing?

A. After I delivered the tracing, I could not.

563 Q. Well then, you didn't?

A. After I delivered the tracing, after Mr. Jack got it do you mean?

564 Q. Yes.

A. I cannot remember, I cannot remember how many prints I made.

565 Q. Did you ever make any other blue-print on which these figures—in which you put the figures in ink than this one?

A. I am not sure whether there was more than one, there may have been another one, I can't remember,—blue-print.

BY MR. BOGLE:

566 Q. Who instructed you the number of blue-prints to take from that tracing?

A. I can't just remember.

567 Q. Do you remember whether Mr. Jack told you or not? A. I don't remember.

568 Q. You have not any recollection at all now as to who told you that?

A. No, I haven't, no, I can't remember whether I was told how many prints to take or who I was to take them for; Mr. Jack naturally told me to take some prints but not just how many; I knew there must be prints wanted.

(Filed Oct. 13, 1913.)

DEPOSITION OF WILLIAM HENRY LOGAN.

Examination of witnesses, beginning December 1st, 1913, upon board the Steamship Strathalbyn, at the Weyerhaeuser Lumber Co.'s loading dock in Everett, Washington, in said District, before W. A. WELLS, a Notary Public in and for the State of Washington, residing at Everett, special examiner by stipulation of counsel, on behalf of the Libelant.

PRESENT, W. H. HAYDEN of Huffer & Hayden, proctors for Libelant and Lawrence Bogle of Bogle, Graves, Merritt & Bogle, Proctors for Respondent.

IT IS HEREBY STIPULATED and agreed that the testimony of William Henry Logan, John Sandilands and William Gilroy, witnesses in the above entitled cause, taken at this time, may be read and introduced in evidence in this case for all purposes, subject only to the objections now made, and that said testimony may be taken before W. A. WELLS, a Notary Public in and for the State of Washington, residing at Everett, and may be taken by said Notary Public in shorthand and transcribed by him and it is hereby expressly agreed that the signatures of the witnesses to said testimony and the reading of the same by them is hereby waived.

WILLIAM HENRY LOGAN, a witness called

to testify in behalf of the Libelant, being first duly sworn on oath, deposes and says:

DIRECT EXAMINATION.

BY MR. HAYDEN:

Q. What is your name?

A. William Henry Logan.

Q. Were you one of the gentlemen who, in company with Mr. C. P. M. Jack and Mr. Frank Walker, surveyed the Strathalbyn in Esquimault while she was on the dock there being repaired after her collision with the Virginian? A. Yes.

Q. Were you one of the gentlemen who signed the blue-print along with Mr. Jack and Mr. Walker?

A. Yes.

Q. And that is the blue-print that was exhibited to you when your testimony was taken in Victoria recently? A. Yes sir.

Q. Did you today make a survey of the Strathalbyn in Everett with Mr. James Fowler, W. Frank Andrews, E. C. Generaux and Mr. Frank Walker.

A. Yes sir.

Q. Did you see Mr. Fowler, Mr. Andrews, Mr. Generaux and yourself sign the report of survey which I will now ask the stenographer to mark Libelant's Identification X1? A. Yes.

Q. Have you particularly noticed whether or not the Strathalbyn is in the same condition she was in at the time you made the measurements just referred to as far as the measurements are concerned that are specified in Identification Z-1?

A. I don't see any difference.

Q. Referring to the measurement of 46 feet 8 $\frac{7}{8}$ inches for the total distance between the outside of said iron brackets, will you state what makes the difference between that measurement and 46 feet 10 inches that you have testified to as the distance between the iron brackets?

A. The measurement at Esquimault was taken over the skylight, and was not so carefully taken as the measurement today.

Q. How was the measurement today taken?

A. It was taken clear of the skylight so that the tape was perfectly fair.

Q. Would the sky-light cause the distance to be greater or less than the distance found today?

A. We measured over the skylight today too.

Q. What did you find the distance measured over the skylight today? A. 46 feet 9½ inches.

CROSS EXAMINATION.

BY MR. LAWRENCE BOGLE:

Q. That is the only way that you could account for the difference in that one measurement?

A. That is what I consider would be the reason.

Q. These measurements in Esquimault were made when? A. It was in February, 1912.

Q. You haven't been aboard the vessel since that time have you Captain?

A. I haven't been on board ever since she left Esquimault, that was sometime after the measurement was taken.

Q. That was a little less than two years ago?

A. It is eighteen months ago—about a year and eight months ago.

Q. Captain, you appeared here today at the request of Mr. Hayden proctor for the libellant? A. Yes.

Q. Do you know whether or not these other gentlemen appeared at the request of Mr. Hayden?

A. No.

RE-DIRECT EXAMINATION.

BY MR. HAYDEN:

Q. Do you remember, in my requesting you to come here, the reason I gave for so doing?

MR. BOGLE: Objected to as being immaterial.

A. You told me that the Strathalbyn was here, and wanted to retake these measurements.

Q. That is all I told you wasn't it? A. Yes.

That's all.

(Witness excused.)

JOHN SANDILANDS, a witness called to testify in behalf of the Libellant, being first duly sworn on oath deposes and says:

DIRECT EXAMINATION.

BY MR. HAYDEN:

Q. What is your name? A. John Sandilands.

Q. Were you on board the Strathalbyn the night she had the collision with the Virginian on January 12th 1912? A. I was.

Q. What was your position? A. Chief Engineer.

Q. You testified in this case before? A. Yes, sir.

Q. State what you have been doing since that time.

A. Held the same position on this ship all the time.

Q. State how much of the time you have been on board this ship?

A. I have been on her except a week end.

Q. What do you mean by week end?

A. Left once on Friday and came back on the following Monday.

Q. What time did you leave on Friday?

A. Afternoon train sometime, the second engineer was in charge any time I was away.

Q. Who was the second engineer? A. Mr. Gilrov.

Q. State whether or not there has been any change of any kind, character or description in the ship that would affect the distance between the light screens on the chart-room deck, or the brackets in the light screens on the chart room deck of the Strathalbyn, since her collision with the "Virginian"?

A. There has been no alteration at all so far as I know; the time I was on the ship, so far as I know no alteration at all, never been touched.

Q. Has the position of the light screens been altered in any way? A. No sir.

Q. Has the position of the bulwark rails above the chart-room deck been altered in any way? A. No sir.

Q. Have the bulwark rails forward of the superstructure in the center of the ship to the forecandle head been altered in any way. A. No sir.

CROSS EXAMINATION.

BY MR. LAWRENCE BOGLE:

Q. Where are your sleeping quarters aboard ship?

A. On the starboard side alongside of the engine room.

Q. That is in the after part of the ship? A. Yes.

Q. Where you are on duty, your chief duty is in the engine-room? A. Yes.

Q. You have no duties aboard ship which would carry you to the chart-room deck? A. Oh yes.

Q. Do you pay any particular attention to any other part of the ship?

A. Oh yes, all over the ship; when in dry-dock, need any repairs.

Q. Do you pay any particular attention to what is going on on the ship at sea?

A. I know all about that certainly.

Q. If the light screens were changed in any way aboard the ship would you be bound to know it?

A. Certainly.

Q. Why?

A. Anybody that has got their eyes open in any position on the ship would know what was going on.

Q. Isn't it a fact that you spend most of your time in the engine-room?

A. Yes, and all over the ship; I very seldom go off the ship when in port.

Q. What is the name of your ship's carpenter?

A. I don't know, not the same carpenter now you know.

Q. The Strathalbyn has been in Scotland since the date of this collision hasn't she, she has been in her home port? A. Oh yes.

Q. When was she in her home port?

A. We left Newcastle-on-Tyne the 15th of July—the middle of July this year.

Q. When did you arrive there; how long were you in Newcastle? A. Two days I reckon.

Q. Where were you in the first part of this year, January of this year?

A. January, I forget now—Antwerp.

Q. Was this time you were in Newcastle the only time you have been in Scotland this year?

A. Yes, the only time.

Q. The Captain and first Mate who were on board the Strathalbyn are not with her now?

A. I don't know where they are.

Q. Where did they leave the ship?

A. They left the ship after they made a round voyage at Dunkirk.

Q. Where is Dunkirk?

A. One of the French towns.

Q. Do you remember when that was?

A. I was just trying to remember, October last year.

Q. They were with the ship then up to October this year? A. 1912.

Q. And have not been with the ship since then?

A. No sir.

Q. This time you left the ship for the week end, is that the only time you have been off the ship? A. Yes.

RE-DIRECT EXAMINATION.

BY MR. HAYDEN:

Q. Did you say you left the ship for two week ends? A. Once.

Q. Since you have joined the ship you have been twice home, and only once since the collision? A. Yes.

That's all.

(Witness excused.)

WILLIAM GILROY, a witness called to testify in behalf of the Libelant, being first duly sworn on oath, deposes and says:

DIRECT EXAMINATION.

BY MR. HAYDEN:

Q. What is your name? A. William Gilroy.

Q. Were you on board the Strathalbyn on January 12th 1912 when she came in collision with the "Virginian"? A. Yes sir.

Q. What position did you occupy then?

A. Third engineer.

Q. What position do you occupy on the Strathalbyn now? A. Second Engineer.

Q. Where have you been engaged since the 12th day of January 1912. A. On the Strathalbyn.

Q. Has there been any change in the structure of the Strathalbyn that would modify or change the situation, location or distance between the port or starboard side light screens on the bridge deck since the collision

with the Steamer "Virginian" on January 12th 1912?

A. There have been no alterations.

Q. Have you been upon board the ship at all times when Mr. Sandilands has been ashore? A. Oh yes.

CROSS EXAMINATION.

BY MR. LAWRENCE BOGLE:

Q. How many times have you been away from the ship? A. Twice.

Q. What length of time?

A. Saturday to Thursday the first time and from Monday afternoon to Wednesday afternoon the second time.

Q. Were you on board the ship when she went in dry-dock on July 13th in Newcastle?

A. I was aboard half a day just when she went in dry-dock.

Q. She was in dry-dock for two days? A. Yes.

Q. Have you used the chart-room deck lights since the date of this collision. A. Oh yes.

Q. What lights do you use?

A. They are oil lamps, that is all I know about them.

Q. You have used the oil lamps on the chart-room deck since the date of this collision, what was the reason for that? A. The dynamo was broken down.

Q. When was that?

A. From October 7th until February——

BY MR. HAYDEN: What year?

A. The beginning of this year.

BY MR. BOGLE:

Q. Do you know where Captain Crerar is?

MR. HAYDEN: I believe that is immaterial.

A. I believe he is in Rotterdam where his home is, that is all I know.

Q. Is he at the present time on any of the Strath boats? A. I have no knowledge of that.

That's all.

(Witness excused.)

WILLIAM HENRY LOGAN recalled:

BY MR. HAYDEN:

Q. Where is Captain Crerar now?

A. I was told that he had gone into the ship chandlery business in Rotterdam.

BY MR. BOGLE:

Q. Do you know where First Officer Purdy is?

A. No one knows where he is.

(Witness excused.)

(Filed Jan. 9, 1914.)

DEPOSITIONS OF JAMES W. LEE AND THOMAS S. BURLEY.

Testimony of witnesses in behalf of libelant, JAMES W. LEE and THOMAS S. BURLEY, taken pursuant to stipulation heretofore filed herein, before R. J. McMillan, U. S. Commissioner, April 18, 1914, at Tacoma.

The libelant appearing and being represented by its proctors, Messrs. Huffer & Hayden,

The respondent, claimant and cross libelant appearing and being represented by Mr. Lawrence Bogle, of proctors.

WHEREUPON, the following proceedings were had and done, to-wit:

MR. JAMES W. LEE, being called and sworn in behalf of libelant, testified in rebuttal as follows:

DIRECT EXAMINATION.

(BY MR. HAYDEN.)

Q. What was your business on the 12th of January, 1912? A. I was a photographer.

Q. And you are still in that business? A. I am.

Q. Did you make any pictures of the steamship "Strathalbyn"? A. I did.

Q. When she was lying out here in the Bay off Tacoma? A. Yes, sir.

Q. I will ask you, referring to "Lee's Identification No. 1," if you took that picture? A. I did.

Q. Did you develop that picture? A. I did.

Q. Is that picture exactly as it was developed by you? A. It is, exactly.

Q. Did you touch up the plates in any way, shape or manner in connection with that picture?

A. Not a bit in the world.

Q. About how far from the Strathalbyn were you when you took it?

A. I was in the neighborhood of about 100 feet as near as I can guess.

Q. I will call your attention to the somewhat blurred appearance of the picture, and ask you what caused that?

A. It was on account of the mist getting on the lens; it was very misty that morning; and there might be a probability that the boat rocked to some extent, and that may have caused it to some extent.

Q. Did you have any directions from me in taking that picture? A. I did.

Q. When you took that picture, did you observe whether or not the light screen on the lower bridge could be seen from the point where you took that picture?

A. It could; they could be seen.

Q. Will you please take this pen and without getting right close up to the spot on the picture, but close enough to indicate it, point out on the picture if you can, where the light screen was seen on the lower bridge?

A. It was right here (indicating); you can see a little bulge or projection there.

Q. Extend that line you have drawn a little further and put your name after it? A. Yes, sir, I have.

Q. Now, did you make an enlargement of that picture? A. I did.

Q. When did you take the picture "Lee's Identification No. 1"?

A. On the morning of the 13th of January, 1912.

Q. Do you know about what time in the morning?

A. Well, it was between one and two o'clock in the afternoon, not in the morning.

MR. HAYDEN: I offer this "Lee's Identification No. 1" in evidence.

(Photograph marked "Lee's Exhibit No. 1.")

Q. Now, is this the enlargement you made from that picture?

A. I made the enlargement from the original negative.

Q. Explain how you make that enlargement?

A. I took the negative and placed it between the light and the camera or lens; the negative would be here

and the lens would be here, and then the sensitized paper is here (indicating) and the further back I move that the larger the picture. It is simply a magnified photograph made from the negative.

Q. From the same plate that the small picture is made from? A. Yes, sir.

Q. Now, referring to this enlarged picture, "Lee's Identification No. 2-A," take this pen and draw a line from the light screen on the lower bridge that shows in that picture? A. Yes, sir, here.

Q. And put after that line your initials?

A. Yes, sir, I have, "J. W. L."

Q. Now, referring to the small picture "Lee's Exhibit No. 1," did you observe the light screen on the upper bridge? A. I did.

Q. Where does that appear in the photograph "Lee's Exhibit No. 1?"

A. That appears a little above,—right here.

Q. Draw a line out from that upper light screen?

A. Yes, sir, here.

Q. And mark that "Upper screen"?

A. Yes, I have.

Q. Will you also make a similar line to show the upper screen on "Lee Identification No. 2-A"?

A. Yes, sir, I have marked it "Upper screen."

Q. State whether or not the light screen on the lower bridge was plainly visible to your eyes from the point, I believe you said about 100 feet ahead of this steamer at that time?

MR. BOGLE: That is objected to as leading.

A. It was.

Q. State what you saw as near as you recollect, of that light screen, that is the lower light screen?

A. It projected out about 12 or 14 inches past the stanchions, and I would judge it was the same height, about a square box, 15 or 16 inches square. I was some distance away; I don't recollect seeing a light in it or whether there was one in it or not.

Q. Referring to Lee's Exhibit No. 1, please indicate on this picture a line that will show the relative position of the camera to the picture?

A. A photograph is always taken towards the cen-

ter of the picture; it does not make any difference what kind of a picture,—if there is none cut off at the side on this other picture, the enlargement, No. 2-A, that is the case; but No. 1 shows it. This would be the direction in which it was taken (indicating).

Q. And where would the camera be?

A. It would be out here perhaps 100 feet and possibly 10 or 12 feet above the water line, not over 10 feet I think.

Q. Indicate what line you would be taking a picture on, with some mark on the picture?

A. The camera would be out in this direction, and about 8 or 10 feet high.

Q. Now, mark the direction by a cross?

A. I would put the cross about here (indicating). The best way would be to draw a line from each side and down to the front.

Q. Well, without actually putting on the lines, mark the point?

A. I do not know that I understand exactly what you want.

Q. I want to find out about where the camera would be located when the picture was taken?

A. I would have to state it was located about 100 feet from the center of the picture,—from about where this scow is.

Q. Towards the bottom of the picture?

A. Yes, towards the bottom of the picture.

Q. Beyond the bottom of the picture as a matter of fact; is that right?

A. Yes, it would be beyond the bottom of the picture.

Q. Then drop a line down showing about where it would come? A. On this line (indicating).

Q. Now, the camera would be somewhere on that line, further than the bottom of the picture?

A. Yes.

Q. You cannot show the place on the picture, but it would be off here (indicating)? A. Yes.

Q. At a point beyond the photograph and to the bottom of it; is that what you mean?

A. I think that would be the nearest to get at it.

I will put a cross up here and mark "Camera pointed towards cross."

Q. Yes, that will do.

(Witness indicates on photograph.)

MR. HAYDEN: We offer the enlargement as "Lee's Exhibit No. 2-A."

MR. BOGLE: We object to that as improper.

(Photograph marked as "Lee's Exhibit No. 2-A.")

CROSS EXAMINATION.

(BY MR. BOGLE.)

Q. When did you say the pictures were taken?

A. On the 13th of January, 1912.

Q. How do you fix the date in your mind?

A. I made a memorandum.

Q. At the time you took it? A. Yes.

Q. Who instructed you to take the picture?

A. Mr. Hayden.

Q. The attorney for the Strathalbyn?

A. Yes, sir.

Q. Was this picture taken the morning after the collision?

A. About one or two o'clock after the collision.

Q. When did Mr. Hayden get in touch with you?

A. Just about noon I think,—as I remember.

Q. And he gave you some instructions in regard to taking the picture. A. Yes.

Q. What were those instructions?

A. He instructed me to go out there and get in front of the boat as near as possible and photograph the screens on a direct line with the stanchions. I did the very best I could on that. The wind was blowing bad and waves were moving the little boat around that I was on. I was on the little "Fawn," and I made two or three attempts to get it. That was the only one I got in that position. It showed the lights very plainly from the view I took it.

Q. Was that the purpose of taking the picture, to show the light screen? A. Yes.

Q. You were instructed particularly with reference to the light screen? A. Yes.

Q. To see if that extended out beyond the stanchions? A. Yes, sir.

Q. And you made a memorandum at the time you took it?

A. Yes. It was a short memorandum stating the time and condition of the weather.

Q. Have you that with you? A. Yes, sir.

Q. Please let me see that? A. Yes, here it is.

Q. Which photograph is the photograph No. 1?

A. The one marked "Lee's Identification No. 1."

Q. Now, as I understand your testimony, the camera was placed in a line with the line you have drawn through the center of the picture? A. Yes.

Q. And what size lens did you have?

A. It was a wide angle lens, intended for $6\frac{1}{2}$ by $8\frac{1}{2}$ lens.

Q. What is a wide angle lens?

A. Wide angle lens is a lens that embraces a certain distance. An ordinary lens is called a long focus, comparing it with the wide angle lens.

Q. That is, it takes a certain distance each way?

A. Yes. The wide angle lens takes in all the way from 70 to 100 degrees.

Q. There is more divergence?

A. Yes, that is what I should have said.

Q. You attempted to place yourself in position directly ahead of the Strathalbyn?

A. Directly ahead of it, yes, sir.

Q. Do you consider you placed yourself in such position?

A. I placed myself in such position, as near as I possibly could.

Q. And do you consider that at the time the picture was taken you were directly ahead of the Strathalbyn?

A. No, I would not say I was. If I had been and at that distance I could not have got the light on the outside of the stanchions.

Q. Why is that?

A. For the reason that the angle on the boat would cut off my view from the lamps if I were directly ahead; so that I had to get on a direct line ahead of the left side of the boat, so as to show the lights projecting out.

Q. Then you consider you were in a line directly parallel with the port side of the vessel?

A. Yes, sir.

Q. And not directly ahead of the vessel?

A. No, not directly ahead of the vessel.

Q. The starboard side does not show in this picture?

A. No, sir, because, for two reasons. I was a little too close to it, and it was misty, and if I had to get all the lines on a less angle, I would have to get back further to get the focus, and would make the one part of the boat badly out of focus.

Q. What are these lines (indicating)?

A. This is a little lifeboat swung down and these are rods coming down (indicating). These are the davits turned out and there is a boat hanging down,—I think that is called a lifeboat, swung down there. Here are some other little boats, possibly a row-boat.

Q. Did you consider those stanchions were in line at the time you took that picture?

A. With my camera, you mean?

Q. Yes.

A. Yes, sir, they were in line, while these three or four outside here on the turn,—I don't claim they were in line; they were not, but the rest of them back towards the center of the boat were. Those last three or four stanchions were on a turn.

Q. Now you say that this line, the lower ink line you have drawn, with your initials opposite, show the light screen on the lower deck?

A. Yes, sir, on the lower bridge.

Q. And that projection which is barely perceptible in the picture, was 12 or 14 inches, you say, outside the line of the stanchions? A. Yes, sir.

Q. Now, you noticed that at the time you took the picture? A. Yes, sir.

Q. You could not tell it from that picture itself, could you?

A. I could tell there is an object projecting out. The fact that the picture is blurred has a tendency to round it.

Q. Did you notice the coaming on the lower bridge rail, that is the lower bridge on which this light screen is placed, projects out, and there is a coaming on the end. Now, do you see that in this picture?

A. Well, it is with such a little lens that it is almost invisible.

Q. Do you see it at all?

A. I don't say that I do. There is a light place underneath this; if it is anything painted light, that would be it.

Q. Will you show me where the coaming of that lower bridge is? A. What is the coaming?

Q. The extreme end of the bridge on the port side; what you might call the deck?

A. In my opinion the extreme end of the bridge did not come out as far as the lights were.

Q. They did not come out as far as the lights were?

A. I don't think so.

Q. You think the light projected out over the extreme end of the bridge?

A. If there was anything, it was simply the little place the light set on.

Q. Did you notice the construction of that light particularly. A. No.

Q. Looking back where you say you could see it plainly, what could you see?

A. I could see the box, and the place where the light should be if there was one.

Q. Could you see how it was fastened, whether at the end of the bridge or at the end of the deck?

A. It was fastened to the end of the bridge, I think; I would not be positive.

Q. Did you notice whether or not the deck beneath the light projected beyond the outermost portion of the light?

A. How far beneath the light?

Q. As a matter of fact, I think the testimony shows that the light screen set a few inches from the lower bridge deck; did you notice whether or not the lower bridge deck extended out beyond the light screen?

A. I don't believe I can tell whether it did or not.

Q. If it did extend out beyond the light screen and you could see 12 or 14 inches of that light screen in this picture, wouldn't you be able to see the lower bridge deck?

A. If it was thick enough, but if it was only three

or four inches projecting and on the bottom, then the piece here, then you could not see it.

Q. Why not?

A. If the light was standing on this edge and this part projected out, then you could not see it, because it is blurred so badly.

Q. Do you see any blur where the lower bridge shows?

A. No, only I see the place where the light was setting.

Q. Can you tell from the picture whether that is the light screen, that small spot, or whether it is the projection of the lower bridge deck?

A. That is the light. I saw it plain when I made the picture.

Q. Can you tell from the picture whether it is the light or the lower deck?

A. I would say it is the light.

Q. You cannot see the projection of the lower bridge at all? A. No, sir.

Q. Can you see it on this enlarged picture?

A. It is not likely; I don't know that I can.

Q. Do you know that you cannot?

A. No, I do not.

Q. Well, can you or can you not see the projection of the lower bridge on that picture?

A. Well, I guess I would have to say that I cannot see it, am not positive in regard to that. If you show me the size of it, I could tell whether I saw it or not. I may not know what you have reference to. If I saw a good picture, I might be able to say.

Q. Now, is this a good picture of it which I hand you?

A. Yes. The light object I spoke of is the one that is painted light here.

Q. Do you recognize this "Lee's Identification A.", as a portion of the Strathalbyn?

MR. HAYDEN: We will admit that.

Q. Now, do you see the light screen on that picture? A. Yes, sir.

Q. Please mark the light screen on that picture, on the lower bridge? A. Yes, sir, here.

Q. Put your initials on? A. Yes, I have.

Q. What portion of the light screen have you indicated?

A. I have indicated the top portion of it.

Q. The top portion of the light screen?

A. I think that is the top portion.

Q. Where is the bottom portion of it?

A. It is invisible here because this was taken so close. This stands back a little and does not get it.

Q. Do you know how that light screen is constructed?

A. I could not make a very close observation.

Q. Is that a block at the forward end of the light screen? A. I could not say.

Q. In looking back at the time you took this photograph, what portion of the light screen did you see so plainly?

A. The portion that projected out; this portion here (indicating).

Q. Mark that portion.

MR. HAYDEN: Can you see it clearly on that picture? A. I don't believe I can.

MR. HAYDEN: Have you any other pictures which you took that you can see it clearly on?

A. I have; here is one, and here is another.

MR. BOGLE: Q. Have you any others.

A. Yes, here is another.

Q. Does that show the light screen clearly?

A. Yes.

Q. Does this picture you have produced show clearly the forward end of the light screen and the after end of the light screen.

A. Yes, sir. This is the forward end and this is the after end (indicating.)

Q. Please mark the forward and the after end.

A. Yes, I have marked.

MR. BOGLE: We will mark that photograph "Lee's Identification No. 5."

(Photograph so marked.)

Q. Now, referring to Identification No. 5 and also "A," can you locate on Identification "A" the after and

forward end of the light screen which you have located on Identification No. 5?

A. Well, it is located here on "A," but it looks to me like it was somewhat cut off, as if there had been some hand work done on that.

Q. Can you locate the forward end of the light screen?

A. It would be right here. I will draw a line out and mark it "Forward end."

Q. How far does that forward end extend?

A. Down to this dark spot, I think.

Q. And can you locate it up above.

A. This is the top.

Q. How far does it come out?

A. No, I couldn't hardly tell by this picture.

Q. Looking to the bridge above, and that dark object, is that the forward end of the light screen on the upper deck?

A. That looks like part of it, but it looks as if it was not all there. It looks like it should project out as much again as it does.

Q. If that was the entire forward end? A. Yes, sir.

Q. Can you tell from the photograph and your recollection, whether the light screen extends out as far as the end of the deck?

A. No, the light screen does not extend out as far as the end of the deck.

Q. And the end of the deck does not show on Identification 1, or the enlargement?

A. No, sir, it shows there, but it shows a light object of the same color as the sky.

MR. HAYDEN: Mark the light object you refer to with the letter "A."

A. Yes, I have marked it, "Light object A," on Lee's Identification A.

MR. HAYDEN: Now, you were going to refer over here on Identification 1?

A. Yes, sir, I will mark it "Light object A," on Lee's Identification 1.

MR. BOGLE: The light object A. you have marked on that is the angle plate, on Identification "A"?

A. Yes.

Q. And what is the dark object out here?

A. That must be the railing around the foot of the bridge.

Q. Is that light or dark?

A. That is apparently painted light and under here you get a shadow.

Q. You say that is apparently light?

A. Yes, evidently; the same color as this, but it is probably a little dark and there is a shadow cast under there from the projection.

Q. It does not appear light on the picture?

A. No, sir.

Q. Does it appear any lighter than the light screens? A. The bottom of it does not.

Q. Can you identify that on Identification No. 1?

A. No.

Q. Referring again to Identification No. 1, this light object you have marked here, extends out about the same distance as the light screen, doesn't it?

A. Just about. It shows light; it is very light on this end where it projects out and it is hard to see, on account of being the same color as the sky.

Q. As a matter of fact, can you see anything sufficiently clear on Identification 1 to identify as to what it is? A. I could not say what it is, no.

Q. This portion of the light screen which you say shows on Identification 1, is that the after or forward end of the light screen? A. That is the forward end of it.

Q. Does the after end show?

A. Not on this picture.

Q. Why?

A. Because the boat was straight towards me.

Q. In looking back at the light screen at the time you took the picture, could you see the after end-

A. Well,— (interrupted)

MR. HAYDEN: Be fair to the witness; he says he does not know much about light screens.

MR. BOGLE: But you have introduced the witness to show these things.

A. I cannot stand in front and see the after end.

Q. But you testified you saw the light screen perfectly clear? A. Yes.

Q. Which end? A. The front end of it.

Q. Did you see any portion of the aft end?

A. I saw the side of it but I could not see the after end from that point, not if I understand what the after end is.

Q. On Identification 5, you have marked the after end.

A. Well, I couldn't see the after end from the front of the ship.

Q. In looking back at the time you state you took this picture and saw the light screen perfectly clear, did you see the front end; you have marked on Identification 5 the after end? A. The front end.

Q. Did you see the after end?

A. No, not at the time I took the picture; not from that point of view.

Q. So that you are sure it was the front end you saw and not the after end? A. I am sure.

Q. You say it extended out 14 inches; is that merely an estimate?

A. That is an estimate; I didn't measure it.

Q. As a matter of fact, the after end of the light screen is considerably wider than the forward end of the screen; do you know that?

A. It is wider; it is somewhat wedge-shaped.

MR. BOGLE: I offer Lee's Identification "A" as an exhibit.

(Marked accordingly.)

RE DIRECT EXAMINATION BY MR. HAYDEN.

Q. In connection with this light screen and what you saw of it, you are positive you saw 12 or 14 inches, to the best of your estimation, of the light screen projecting out beyond the stanchions? A. Yes.

Q. Whether the after end or the forward end?

A. Yes.

Q. And you saw that from a distance of about 100 feet ahead of this vessel?

A. About 100 feet ahead of the vessel, yes, sir.

Q. That is the position from which you are determining and giving your evidence of the appearance of that light screen to you? A. That is what it was.

Q. And if there had been two colored pieces of

boards, two green pieces of board, one of them $4\frac{1}{2}$ inches wide and one 12 or 14 inches wide, you would have been able to tell from your position whether it was the forward end or the after end of the light screen?

MR. BOGLE: That is objected to as cross examination of your own witness.

A. It would be pretty hard, but I think I would be pretty sure it was the front end.

RE CROSS EXAMINATION BY MR. BOGLE.

Q. Can you swear at this time that you saw 12 or 14 inches of it?

A. I will swear that I did, yes; making an estimate of it.

Q. And you were 100 feet or so away?

A. 100 feet in front of the boat, which would make it more than 100 feet to the light.

Q. And you were engaged and your attention centered upon taking the picture for the purpose of showing the screen. A. Yes, sir.

Q. Did you take any particular notice whether there was 6 or 8 or 10 or 12 inches of the screen showing?

A. I had my camera to watch and at the time I snapped the lens—I don't know whether it was exactly that much or not, that projected out, but it was in that vicinity somewhere between 6 inches and a foot or so.

Q. You were taking various pictures of this boat?

A. Yes, sir.

Q. From place to place? A. Yes.

Q. And saw the light screen in numerous places?

A. Yes, sir.

Q. Do you have any clear recollection of just how much of it showed, if any, at the time you took this particular picture?

A. I would not exactly; I could only make an estimate.

MR. HAYDEN: Q. Will you please identify these photographs by the numbers they bear and I will introduce them at this time.

(Whereupon photographs were identified and marked Lee's Identifications numbered from 2 to 18 inclusive.)

Q. Did you take these pictures? A. Yes, sir.

Q. And are they pictures of the Strathalbyn which you took here showing her damage as they purport to show. A. Yes, sir, and I made them all myself.

MR. HAYDEN: I offer in evidence this "Lee's Identification No. 5."

(Photograph marked accordingly "Lee's Exhibit 5.")

MR. BOGLE: When were Identifications 2 to 18 taken?

A. They were taken on the 13th and I believe the 15th of January, 1912. Nos. 1 to 5 were taken on the 13th.

Q. And all about the same time in the afternoon?

A. Yes, sir. And Nos. 6 to 10 were taken on the 15th; 11 to 18 were taken on the 16th.

Q. Were these all the pictures you took?

A. Yes, sir.

Q. And this was all the plates you made?

A. Yes, sir.

(Witness excused.) (Signature waived.)

THOMAS S. BURLEY, called and sworn in behalf of the libelant in rebuttal, testified as follows:

DIRECT EXAMINATION BY MR. HAYDEN.

Q. What has your business been?

A. Piloting on Puget Sound and managing tug-boat companies and all around steamship man.

Q. Did you see the steamer Strathalbyn after her collision with the Virginian in Tacoma Bay on or about the 13th of January, 1912? A. I did, the next afternoon.

Q. Were you on the launch with the photographer, Mr. Lee, when he was taking pictures of the Strathalbyn? A. I was.

Q. Were you present when he took this picture marked "Lee's Exhibit No. 1?"

A. I presume I was; we took a picture right ahead of the ship, and I presume that is the one; I did not see it developed, of course.

Q. Did you while you were ahead of the ship make any observations with the object in view of ascertaining whether or not the side light screen on the port side of

the ship could be seen from a point directly ahead; that is, the side light screen on the lower bridge of the Strathalbyn? A. Yes, sir.

Q. State what was the result of your observations?

A. When we went out there first we swung the launch around about fifty feet ahead of the ship. That was too close, so I turned around and we went off about one hundred feet ahead of the ship. We tried to get as near as we could right square ahead but there was a little wind and tide, and it was hard to hold the launch in position, but from our position I could see both side screens; there were no lights in the screens.

Q. On which side of the ship?

A. The port side. The starboard side we were unable to see anything at all on account of the mass of wreckage, and also they had a scow at No. 2 hatch, discharging lumber.

Q. What light screens did you see?

A. Both of them; one on the upper bridge and one on the lower bridge.

Q. You could see that from what position?

A. From the position standing along side the photographer at the camera.

Q. Where was the launch at that time with respect to being ahead of the ship?

A. Well, we were ahead of the ship when the photographer put that cloth over his head, but there was a little southeast wind and I think the launch drifted a little bit, but we were as near ahead as it was possible to get, by the judgment of your eyes anyway.

Q. Would you say from your observation that the side lights, had they been in those screens and burning, could have been seen from a ship approaching the Strathalbyn, bow on, and on a line parallel with the Strathalbyn's keel projected?

MR. BOGLE: That is objected to as being leading.

A. If you could see the side screens, you could certainly see the side lights when they were in the screens.

Q. About how much of the side light screen on the lower bridge on the port side would you say you could see?

A. There was a small block of wood in the front,—

in the forward end of the screen. I could just see the bare outline of that, possibly not more than two inches projecting, but the after part of the screen, you could see very plain.

Q. Now, I want to ask you a hypothetical question: Suppose a ship, called the *Virginian*, another ship called the *Flyer*, were coming from Seattle to Tacoma, and that the *Flyer* overhauled the *Virginian* somewhere about Three Tree Point, and the *Flyer* was going faster than the *Virginian* and when she got somewhere on or about half way between Three Tree Point and Robinson Point the *Virginian* was somewhere a half a mile or something like that astern of the *Flyer*, the people on the *Virginian* who were navigating her heard from a point ahead one blast from a steamer which they say, and assuming for the sake of the question, they could not see, and after hearing that signal they heard the *Flyer* blow one whistle; that after hearing the exchange of those whistles approximately a minute elapsed and they heard another whistle from a point ahead which whistle was not answered by the *Flyer*; and assuming that another minute passed and they heard still another whistle from a point ahead, each of the whistles being a one signal, one blast whistle, a passing signal, what in your opinion would be the practical, usual maneuver to be performed by the navigator on the *Virginian*?

MR. BOGLE: Object to that on the ground that the witness is not shown to be qualified as navigating expert and also that it is an incorrect statement of the entire testimony in the case.

A. Do I understand you to say that the people on the *Virginian* heard the whistle first and then heard the *Flyer* blow?

Q. Yes.

A. And then after the *Flyer* answered they heard two other whistles?

Q. Yes. A. Blown at intervals?

Q. Yes.

A. Well, I should judge the vessel was coming in the direction of the *Virginian* and that the *Flyer* had passed her, giving the port passing signal, and passed her.

Q. And what would be your answer to my question as to what the navigating officer should do on the approach of the *Virginian*?

MR. BOGLE: I renew my objection, and also object on the ground that it is not proper rebuttal.

A. In answering the gentleman's question about my knowledge,—(interrupted).

MR. BOGLE: You may answer the question; that is merely my objection.

A. Well, I think if I had been on the vessel under those conditions,—I am not particularly specifying this *Virginian*, but supposing myself on another vessel, a steamer, under those conditions, I think I would be inclined to port because I would naturally think that inasmuch as the *Flyer* was directly ahead of me, as you describe,—(interrupted).

MR. BOGLE: I think that is not in the question.

A. Well, I understood he stated the *Flyer* had passed the *Virginian* and then they heard a whistle right ahead.

Q. That is the way it is.

A. I would be inclined to think then that there was,—at least I would know the *Flyer* had passed the vessel on the port passing signal, and I would port then as a matter of safety. But that is really a hypothetical question, because there are so many conditions that come up in navigation that you have to act very quickly; the same conditions which come up with me many times on this Sound where I have put the wheel hard aport and turned around and headed the other way, in order to avoid, as I thought, possible collision.

CROSS EXAMINATION BY MR. BOGLE.

Q. In that case, could you see the other vessel and know where she was?

A. The last time that happened to me I was approaching Robinson Point with the *Bellerophon* in the night time, and I could see the white light, but the port light was out, and I put my wheel hard aport. He blew one whistle to me and I turned right around the other way.

Q. Referring to the former question of Mr. Hayden's, when would you, if you had been on the *Vir-*

ginian as navigating officer, have ported the Virginian?

A. That is a very hard question to answer, because as I have stated, there are so many different situations coming up, that it would be very hard to say right now, inasmuch as I was not there, just what moment I would have ported. I think I would have ported right away, the minute I heard the first whistle; the minute I heard the second, anyway.

Q. That is the first whistle answered by the Flyer?

A. No, the first whistle after the Flyer had answered.

Q. You think that would have been the proper navigation on your part, if you had been in charge of the Virginian? A. Well, it would have been safe.

Q. Do you think it would have been safe, captain?

A. I think so, yes.

Q. Under the circumstances, if you were on the Virginian and could not see any light ahead at all, do you think it would be proper and safe navigation to have ported your vessel?

A. I think so, for this reason, that if the Flyer had blown first and the other vessel answered and I had not seen any light, of course I would have known the Flyer was overtaking another vessel, but inasmuch as you state in your question that the other vessel blew first and the Flyer answered, I would naturally suppose then, especially if the Flyer was ahead of me, that I had something over on my port side.

Q. On your port side? A. Yes, on my port side.

Q. Would that whistle necessarily indicate that it was coming directly towards you, so that porting, you would have missed her? What if she had been on crossing course?

A. She would not have given the port whistle then; I would not get a port whistle on a crossing course.

Q. The port whistle means the vessel blowing would leave you to her port?

A. She will port her helm and her head would go to starboard.

Q. She would leave you to her port?

A. Yes, sir, port to port.

Q. Then there is no circumstance except when ap-

proaching each other that they use the port whistle, is there, as I understand you? Don't they use it when they are crossing? A. Oh, yes.

Q. How would it have been if she was crossing the Virginian; would that have been safe under all circumstances where you could not see the other vessel?

A. When you meet a vessel between Three Tree Point and Robinson Point, you can be almost sure she is bound down Sound, because there are no places where she can be crossing.

Q. But you know it is a large vessel; are you allowed to take such a fact for granted in navigating a large vessel?

A. If they give me a port whistle, then I must naturally suppose that they are going to pass me on my port side.

Q. And if you could not see him, you would port?

A. I think I would, yes, as a matter of safety.

Q. Would you answer his whistle?

A. Not unless I could see him.

Q. But you would port?

A. If I could see his lights, I would answer.

Q. But if you could not see his lights, would you port nevertheless?

A. If I could not see his lights and I heard a vessel coming, a vessel ahead of me, I think I would be inclined to pretty hard aport and turn the other way. I have not been in the habit of meeting vessels without lights.

Q. That is, if you could distinguish the whistle as being directly ahead? A. Yes.

Q. But if you could not distinguish exactly where it was?

MR. HAYDEN: The answer filed admits the whistle was directly ahead, and the witnesses testify so, and I do not think the question assumes the fact in this case, and I object to it for that reason.

Q. It may have turned out later that they were directly ahead, but the witness is speaking about an officer on the Virginian, under the circumstances.

A. The question was put to me, that the whistle was right ahead.

Q. But if you were on the Virginian and could not distinguish exactly where the whistle was?

A. If I could not distinguish where it was, I think I would stop the ship and go full speed astern.

Q. Would not that be the safe navigation?

A. Not always; sometimes you get in trouble by full speed astern, by losing control of your vessel.

Q. Wouldn't it be proper navigation on your part to stop after the first whistle, when you are not able to pick up anything, and if you hear another whistle, to go full speed astern?

A. I do not like to answer that, inasmuch as I was not on the bridge of the Virginian; it is awfully hard to judge what you would do. There are so many different situations. You could get a thousand different situations in one trip from Victoria to Tacoma.

Q. But you have answered that proper navigation would have been for him to have ported?

A. I answered the question that he asked me, if I got a whistle right ahead, and then he explained the circumstances with regard to other whistles previous, with regard to the Flyer and the Strathalbyn.

Q. Would the fact that the Flyer answered the other whistle indicate that she had already passed her at the time of the second whistle? A. Yes.

Q. That would indicate she had passed her within a minute after she answered?

A. The second whistle would indicate that the other steamer had passed the Flyer.

Q. You think that would be indicated? A. Yes.

Q. And you still say you think that would be the only safe navigation?

A. Well, no, I don't say that. You asked me my opinion, but I would not say as to what would be safe navigation under those circumstances, inasmuch as I was not there.

Q. Were you in charge of the small launch at the time these pictures were taken? A. No, sir.

Q. You were not navigating her? A. No.

Q. How did you happen to go out?

A. I owned the boat.

Q. You own the "Fawn"?

A. Yes, sir; that is, I am part owner; manager of the company, the Tacoma Tug & Barge Company. If I remember right Mr. Hayden informed me the photographer was going down and asked me if I would go out; I don't know whether he said to assist or help him or something of the kind. It is not quite clear how I came to be there. I think Mr. Hayden telephoned me.

Q. Did he say anything to you at that time about paying any particular attention to the side light screens?

A. I think he did.

Q. This was the day after the collision?

A. Yes. I am not clear on just how I came to be out there. I think Mr. Hayden asked me and I possibly went out partly through curiosity.

Q. You remember some conversation about the side lights?

A. Yes, I think there was some conversation over the 'phone.

Q. This photographer took a great many pictures in various positions.

A. Yes. We took a picture ahead of the ship.

Q. You mean directly ahead?

A. This one here, Lee's Identification No. 1.

Q. Was that taken directly ahead?

A. We were directly ahead of the ship when he put the cloth over his head, but she may have drifted a very little.

Q. Which way?

A. The wind was from the south, so that she would drift to the port side.

Q. To the port side?

A. No, I think the other way. It would hardly be perceptible; he was very quick.

Q. How did you determine you were directly ahead of the ship? A. By looking along the line of her masts.

Q. And they were directly in line?

A. They were when he put the cloth over his head.

Q. And were they afterward?

A. No, sir, she drifted a little.

Q. Doesn't the picture show you were not directly ahead of the ship?

A. Well, I would not like to say. There may be

something about the camera of course that I don't know anything about, but according to this we are not directly ahead of the ship, or the main mast would be directly back of the smokestack.

Q. Does that picture show you on the port side of the ship? A. Yes, a little on the port side.

Q. And you noticed particularly at the time that you could see a part of the forward end of the light screens? A. Yes, sir.

Q. You are sure of that?

A. Quite sure, and if I remember right the light screens on the upper bridge were setting right on the deck, and the light screens on the lower bridge were up above the deck.

Q. Did you notice whether or not the deck on the lower bridge extended out beyond the light screens?

A. I don't remember that.

Q. There was considerable wind that day?

A. Not considerable, not very much; it was raining and a little wind but not much.

Q. Was the vessel on the beach at the time?

A. She was, yes.

Q. And you were standing on the deck of this small launch when you saw part of the forward end of the light screen?

A. Yes, I wanted to get a line on the cargo stanchions; I could see with my eye a good straight line of the cargo stanchions right up to the bridge. Of course when they got around to the fore mast they start to come in with the shape of the ship.

Q. But you could not see either starboard light screen?

A. No, on account of the wreckage and list of the vessel, and the scow. But if I remember right we did go around on the scow and I think we took a picture of the screens on the starboard side.

Q. Have you ever seen that picture since it was taken?

A. No, sir, I have been away; we took a great many pictures that day. We took a picture ahead of the ship and one around on the starboard, and took a

picture loading off the scow, and several pictures of the wreckage. I think we took four or five that day.

Q. And this was in the afternoon?

A. It was after lunch; I could not recollect the time.

Q. What were they doing aboard the Strathalbyn at the time?

A. They were discharging lumber in No. 2 hatch on to lighter.

Q. Do you know how much lumber they discharged?

A. No, there was probably, if I remember correctly, twenty or thirty thousand feet on the scow.

Q. Had they discharged any lumber from the deck load?

A. I think they were discharging from the deck load.

Q. Were any of the lashings in place on these stanchions at the time?

A. I was not on the ship. I think I was on the scow.

Q. You think you could distinguish the forward from the after end of the light screen from a distance of 100 feet ahead, on a rainy, misty day?

A. I could just see this small projection of the piece that was in the front end of the light screen, and then the after end was plain.

Q. You could distinguish the two portions of the light screen from that distance? A. Yes.

Q. On a rainy day?

A. Yes. Of course that small speck might have been a couple of inches projecting beyond the stanchions. Possibly one stanchion was tilted more than the other.

Q. You think you were directly ahead of the ship at the time?

A. As near as I could judge with my eye. The picture itself shows that.

RE DIRECT EXAMINATION BY MR. HAYDEN.

Q. Now, Captain, what has been your experience as navigator on Puget Sound?

A. I have been a master of vessels on Puget Sound for nineteen years. I have been pilot on the Blue Funnel

Line for fourteen years, in fact, ever since the line ran here, and on the Northern Pacific Steamship Company previous to that.

Q. And any other experience?

A. I have been to sea all my life.

Q. And have you had anything to do with tug-boats?

A. I have been master of tug boat on the Sound from 1895 up to the time that Captain Gatter died about fifteen years ago, and then I went as pilot for the Northern Pacific Steamship Company, and then from them to the Blue Funnel, and I have been with them since.

(Witness excused.)

(Signature waived.)

(Filed May 28, 1914.)

DEPOSITION OF CAPT. W. S. MILNOR, ET AL.

Testimony of CAPT. W. S. MILNOR, F. C. HOFSTETTER, and HARRY SWANSON, witnesses on behalf of Libelant, taken at Tacoma, Washington, March 18, 1914, before Raymond J. McMillan, U. S. Commissioner, under the order of the above named Court, and stipulations by proctors of the respective parties, it being particularly stipulated that the testimony of the above named witnesses may be used without objection on account of the said witnesses not reading or signing their testimony, which signing and reading is particularly waived.

The Libelant appearing and being represented by Mr. W. H. Hayden, of proctors for Libelant.

And the Respondent and Cross Libelant and Claimant appearing and being represented by Mr. Lawrence Bogle, of proctors.

WHEREUPON, the following proceedings were had and done and testimony taken, to-wit:

W. S. MILNOR, a witness called and sworn in behalf of the Libelant, testified as follows:

DIRECT EXAMINATION BY MR. HAYDEN.

Q. Your full name, Captain?

A. Walter S. Milnor.

Q. Are you the same witness who heretofore testified in this case? A. I am.

Q. While the "Flyer" was moving towards Tacoma and when you saw the lights on the "Strathalbyn" as she was coming towards the "Flyer," do you know whether or not those lights burned steadily before the collision?

A. Before the collision the lights I saw were burning steadily.

Q. Did they or did they not flare up and go out and flare up again and go out and continue in succession that way? A. No, sir, they did not.

Q. After the collision, did the "Flyer" pull away from the "Strathalbyn" and head on to Tacoma and leave the "Strathalbyn" astern? A. Yes, sir.

Q. Did you remain on deck and observe the lights of the "Strathalbyn," after the "Flyer" started to pull away from her? A. Yes, sir.

Q. Did you observe that the lights on the "Strathalbyn" were steady? A. Those I saw were steady.

MR. BOGLE: We object to that as being immaterial, being after the collision.

Q. Will you tell us, please, what you observed with regard to the lights on the Strathalbyn after the collision and after the Flyer started to pull away?

A. As we were coming towards Tacoma I stood on the after deck of the Flyer watching the Strathalbyn. The Strathalbyn was headed towards Robinson's Point and I could see her port light and her mast-head light for some distance. The Strathalbyn was going very slowly and we were going very fast. I did not keep any record of the time that the lights remained in view. They were finally cut off from us.

Q. Cut off by what?

A. My impression was by the angle of the Point. She was headed toward the Point as I thought for the purpose of being beached.

Q. That is Robinson's Point? A. Yes, sir.

Q. And you say she was cut off by the angle of the Point?

A. Yes, probably she passed beyond our range of vision.

Q. The Flyer was coming towards Tacoma and the Strathalbyn was on the Seattle side of Robinson's Point?

A. Yes, sir.

Q. And the Strathalbyn's course caused Robinson's Point to intervene, and the red light was cut off?

A. Yes, sir.

Q. So that you saw the red light on the Strathalbyn after the Flyer had passed Robinson's Point?

A. We passed Robinson's Point and headed towards Dash Point, and for quite a while the lights of the Strathalbyn remained in view.

Q. Did you see the mast-head light of the Strathalbyn about that time? A. Yes, sir.

Q. And did the mast-head light and side light of the Strathalbyn appear to be steady or otherwise?

A. Steady, sir.

Q. Did they flare up and go out and flare up and go out and flare up and go out in succession?

A. No, sir.

CROSS EXAMINATION BY MR. BOGLE.

Q. You testified in this case before? A. Yes, sir.

Q. And you did not testify on any of these points before?

A. I don't remember what I did testify before. I could not say whether I testified on these points or not.

Q. What lights did you see before the collision?

A. I saw,—(interrupted).

MR. HAYDEN: We object to that as having been gone into and is not proper cross examination at this time.

MR. BOGLE: The witness has been asked about the lights flaring up, etc.

Q. What lights did you see before the collision?

A. Two white lights; one was the mast-head light and the other—as we afterward came up, I saw was the light shining from an open port.

Q. You did not see her port lights at all?

A. No, sir, not before the collision.

Q. How long did you see this mast-head light before the collision? A. I don't recollect now.

MR. HAYDEN: Object as having been gone into on the prior examination and not proper cross examination at this time.

Q. I want to find out for what interval you ob-

served the light; how long did you see the light before the collision?

A. I think for several minutes, according to my best recollection.

Q. I think you went out, didn't you, when the *Flyer* answered the *Strathalbyn's* whistle?

A. My recollection is that I was reading the paper in the cabin, and was about finishing it, and folding it up, and heard the whistle blow, and I went out to see what we were passing.

Q. I think you testified heretofore that you were in a strongly lighted cabin?

A. Yes, sir, and my eyes were not accustomed to the darkness.

Q. Did it take you some little time to become accustomed to the darkness?

A. Yes, sir. The forward blinds are pulled down, or the shades, at night to keep the light from the cabin from shining forward, and I was out on the port side, and my vision was interfered with by the lights still shining through the cabin windows.

Q. And it was from that position you observed the mast-head light?

A. Yes, sir. I was standing abaft the midships.

Q. And from that position you did not notice that it flared up and that it went down?

A. No, sir. It was burning steadily to my vision at that time.

Q. Now, Captain, you testified that after the collision the *Flyer* went back to the *Strathalbyn*?

A. Yes, sir, and also went to the *Virginian*.

Q. And at that time you saw the mast-head light?

A. I must have seen it when we went back.

Q. Do you remember whether or not you noticed it?

A. Yes, I know I noticed it. I am positive I must have noticed the mast-head light, because we were expecting the *Strathalbyn* to sink, and I saw her lights.

Q. Did you pay any particular attention to her mast-head light as you approached her after the collision?

A. Not any especial attention. I saw the light burning steadily.

Q. You did not watch it steadily?

A. Yes, I kept my eyes on that light except for one interval during which I left my position and reported to the Captain of the Flyer my presence on board, so that if he needed me in any emergency. During that time I did not watch.

Q. But what I am getting at is this: were you watching the positions of the vessels or keeping your eye fastened on this mast-head light all the time?

A. Oh, I was not keeping my eye fastened on the mast-head light. I was observing the vessels as far as I could.

Q. You didn't pay any more attention to the mast-head than the side lights and outline of the vessel?

A. There was one light that afterward drew my attention from the mast-head light. It was a lantern lowered over the side of the boat to see how big a hole was knocked into her, evidently.

Q. That lantern was lowered over the side of the Strathalbyn? A. Yes, sir, that is my recollection.

Q. You are sure of that?

A. Not absolutely sure, but that is my recollection. I have not taxed my memory with it for a long time. There was great confusion at the time.

Q. This collision occurred over two years ago, being in January, 1912?

A. Well, to tell the truth, I couldn't swear whether it was 1912 or 1913. It must have been longer than last January, though.

MR. HAYDEN: It was in January, 1912.

(BY MR. BOGLE.)

Q. Have you kept this matter in your mind since that time? A. No, sir.

Q. So that it is very clear in your mind now?

A. Not all the details, no, sir. I have rarely thought of it since my last testimony. There was no reason for me to keep it in mind.

Q. How long did you stay alongside the Strathalbyn and the Virginian?

A. Just a few moments, to ask if they needed help and to reply to questions from them.

Q. As you approached the two vessels, they were headed in towards the shore, were they?

A. The Strathalbyn was. She backed away from the Virginian and then swung on port helm to go to Robinson's Point.

Q. She did that while you were there?

A. But we were moving. I don't know whether we came to a dead stop or not but we were in that vicinity.

Q. But did she swing on port helm and towards Point Robinson while you were there?

A. Before we left.

Q. Did she swing in at the time you came up?

A. I could not tell whether she was swinging or going in a straight line. My recollection now is she was slightly—well I couldn't say whether under port helm or not.

Q. As you pulled away, she was following you?

A. No, sir. We were headed towards Dash Point and she towards Robinson's. She was nearer inshore than we were at the time.

Q. This collision occurred over towards Pulley Point? A. Yes, sir; very near midway between the two.

Q. How far was she out from the mainland?

A. I could not say exactly.

Q. She was some considerable distance from Robinson's Point?

A. When she had backed away from the Virginian, to the best of my recollection, she was nearer Robinson's Point than Pulley Point.

Q. Was she nearer the mainland than to Vashon Island? A. Maury Island.

MR. HAYDEN: That is objected to as not proper cross examination.

A. Robinson's Point is on Maury Island.

Q. Was she nearer the main land than Maury Island?

A. No, sir, I don't think so. My recollection is that Maury Island was her nearest beach.

Q. And she was headed towards Robinson's Point as you passed Robinson's Point for Dash Point?

A. We passed astern of her and she was headed in for Robinson's Point.

Q. Before you left she had straightened around on her course for Robinson's Point?

A. That is my recollection. We circled down to the Virginian and headed back towards Seattle and then swung again for the Strathalbyn, after leaving the Virginian.

Q. On which side did you come up on the Strathalbyn?

A. On her starboard quarter, and passed astern of her.

Q. And headed for Dash Point? A. Yes, sir.

Q. And she at that time was headed for Robinson's Point? A. Yes, sir, she was.

Q. Where were you standing when you observed this mast-head light?

A. First I was on the port side of the Flyer abaft the midships; subsequently I was up along side the pilot house of the Flyer and in front of the pilot house. Afterward as we drew away from her, I went aft and stood on the after deck of the Flyer with several others.

Q. How far was the Strathalbyn from you when you were on the after deck? A. I couldn't tell you that.

Q. Well, approximately?

A. Well, I couldn't approximate it. I have not tried to fasten it in my mind.

Q. You observed what lights then?

A. I observed the port light and mast-head light.

Q. You saw a port light then? A. Yes, sir.

Q. Were you further away from her then than when you passed her originally prior to the collision?

A. Oh, yes; I am satisfied much further away.

Q. You could see her port light at that time?

A. Yes, sir, for awhile.

Q. Did you see her starboard light at all after you had gone away from her after the collision?

A. I saw her starboard light, if I remember now, after she had backed away from the Virginian, and we were headed toward the Virginian. It brought her starboard light within our range.

Q. That is after the collision? A. Yes, sir.

Q. When you were along side pretty close?

A. Fairly close, yes.

Q. How long did you stand on the after deck of the Flyer watching this mast-head light and port light?

A. Until it was cut out from our view.

Q. She must have been then right in on the beach?

A. I presume so; the impression of those who were watching and discussing was that they had succeeded in beaching her.

Q. Were you standing during all that time and watching this mast-head light and port light?

A. Yes, sir. Once or twice I took my eye off from the Strathalbyn and looked at the Virginian.

Q. Where was the Virginian during this time?

A. She was coming up; she was apparently on the other side of Robinson's Point.

Q. As the Strathalbyn went across from the point of the collision to Robinson's Point, did you notice the position of the Virginian?

A. I noticed the Virginian, yes, sir.

Q. On which side of the Strathalbyn was the Virginian?

A. At that time she would be on the starboard quarter of the Strathalbyn, between the Strathalbyn and Pulley Point.

Q. She was on the other side of the Strathalbyn from you?

A. Yes, sir, but the Virginian was further off shore than the Strathalbyn; that is, I mean further away from Robinson's Point.

Q. As the two vessels crossed this channel towards Robinson's Point, how close was the Virginian to the Strathalbyn?

A. Oh, they were too far away to determine that.

Q. Were they apparently very near together?

A. No, they were not close together.

Q. Was the Virginian following up pretty to the Strathalbyn's beam?

A. Oh, no, the Virginian was not near the Strathalbyn's beam then; to my recollection she was off the starboard quarter of the Strathalbyn.

Q. That is, on the north side of her?

A. Yes, sir, on the north side.

Q. You understand that I mean during the entire

interval from the collision as they passed over toward Point Robinson?

A. You see, I was not watching the Virginian very closely. Now and then I turned my eyes on her.

Q. Isn't it a fact that during that interval the vessels were close together? A. After the collision.

Q. After the collision as the Strathalbyn went over to Robinson?

A. No, sir, I don't think so. After the Strathalbyn backed away from the Virginian and headed towards Robinson's Point, the distance between them constantly increased.

Q. The Virginian did not keep up pretty close?

A. No, sir; not from our point of view.

Q. Did you pay any particular attention to the Virginian during that interval?

A. Not especially; only occasionally taking a glance over towards her.

Q. Were you watching the Strathalbyn during all that time?

A. Yes, with the exception of a few intervals when I would turn my eyes toward the Virginian.

Q. Were you a mile away from the Strathalbyn?

A. At any time?

Q. At the time you were watching her?

A. Oh, I watched her as far as we could see her; more than a mile away.

Q. And you could see her port light all that time?

A. I would not say that. As she passed inshore and we got abaft her beam, we would not be able to see the port light.

Q. Did you see it up to that time?

A. I could not tell you how long I did see it; I saw it for awhile until something cut it off.

Q. What you were particularly watching was the Strathalbyn's mast-head light?

A. I was watching the dark outline of her hull and her lights. The reason we were watching the lights was that we expected to see her go down.

Q. You had previously been along side of her?

A. Yes.

Q. And she told you she needed no assistance?

A. She said they thought she could make it. The Captain asked if they needed help, and they said, no.

Q. Still you continued to watch?

A. Yes, because she had a heavy list and in my opinion she would not be able to make it at that time.

Q. It was rather peculiar that the Flyer would leave her out in mid-stream, then?

A. I was not in command of the Flyer, sir.

Q. You were not particularly watching the mast-head light, but were watching to see where the vessel went?

A. Watching the general contour of the vessel, and the light told us where the vessel was. It was a pretty black night.

Q. Did you see any other vessels in this vicinity during that time?

A. No, sir, I did not. I don't remember seeing any.

Q. You did not see any other vessel after you left the Strathalbyn?

MR. HAYDEN: Same objection.

A. The Strathalbyn and the Virginian and the Flyer were the only vessels I remember being around.

Q. At any time until you lost sight of the Strathalbyn around Robinson Point?

A. I don't think we passed any other vessel on the way to Tacoma.

Q. But I mean, did you see any other vessel in the vicinity of the Strathalbyn?

A. No, sir, I cannot remember any now.

(BY MR. HAYDEN.)

Q. As I understand, your impression was that the Strathalbyn was heading in to make a landing or make the beach inside Robinson's Point? A. Yes, sir.

Q. And your impression was gained by observing the course the Strathalbyn was taking? A. Yes, sir.

(Witness excused.)

(Signature waived.)

Whereupon, an adjournment was taken until Two P. M.

Two P. M.

MR. F. C. HOFSTETTER, a witness called and sworn in behalf of the Libelant, testified as follows:

DIRECT EXAMINATION BY MR. HAYDEN.

Q. Your full name? A. Fred C. Hofstetter.

Q. Where do you live?

A. 1112 E. 58th Street, this city.

Q. What is your business?

A. Merchant, harness and sporting goods.

Q. Your place of business is on Pacific Avenue?

A. 1513 Pacific Avenue.

Q. Were you a passenger on the Steamer Flyer coming from Seattle on the night of the collision between the Steamers Strathalbyn and the Virginian? A. I was.

Q. Where did you remain on the Flyer from the time she left the Colman Dock until after this collision?

A. On the outer deck of the Flyer.

Q. Do you remember passing the Steamer Virginian on that trip? A. I do.

Q. Where were you on the Flyer about the time you passed the Virginian?

A. On the port side of the boat, a trifle forward,—well on the port side of the bow of the boat, forward of the cabin, and within speaking distance of the lookout on the Flyer.

Q. Did anything occur to attract your attention to the Steamer Strathalbyn?

A. The lookout on the Flyer reported "A vessel off the port bow, sir".

Q. Are those the words he used?

A. Those are the words he used, yes, sir. It was answered by one blast of the whistle from the Flyer and replied to by one blast of the vessel we were approaching which proved to be, I believe, the Strathalbyn.

Q. Between what points was the Strathalbyn and the Flyer at that time?

A. Between Three Tree Point and Point Robinson.

Q. When your attention was attracted to the Strathalbyn, could you see her or make her out in any way?

A. Only as far as the lights were concerned; I could see the masthead light and the red and green sidelights.

Q. How did those lights appear to be burning?

A. Ordinary, same as customary for such lights to appear under like conditions.

MR. BOGLE: We object to that as being a conclusion.

Q. State whether or not you could see them clearly and distinctly?

A. I could see them,—(interrupted)

Q. About how far away would you say the lights were when you first saw them?

A. Some place between a half a mile and three-quarters of a mile.

Q. Did you continue to observe those lights until the Strathalbyn reached the Flyer? A. I did.

Q. Did you observe whether or not those lights burned steadily or flared up and down and went out and came up again, in somewhat alternate succession?

MR. BOGLE: Object to that as leading and suggestive.

Q. Did you observe whether or not the lights that you saw on the Strathalbyn appeared to be burning steadily or whether or not they were flaring up and dying out and flaring up and dying out in alternate succession?

A. They appeared to be burning steadily, to the best of my knowledge.

Q. Did you observe at any time before the collision any other lights on the Strathalbyn than the lights you have mentioned?

A. About the time the Strathalbyn was opposite us, my attention was called to several small lights near the stern of the Strathalbyn. That was the first intimation I had of the size of the vessel.

Q. After the Strathalbyn was abeam of you, did you continue to observe her and did you observe the Virginian? A. I did.

Q. In your own way, state what you saw?

A. I stepped to the rail of the Flyer and noticed, or the thought occurred to me at least,—(interrupted)

MR. BOGLE: State only what you saw.

A. I stepped to the rail of the Flyer and noticed that the two vessels, the Virginian and the Strathalbyn appeared to be in almost direct line with each other and continuing to observe them I noticed that the bow of the Virginian appeared to have turned a trifle to the port side. This was over the stern of the Flyer to a certain

extent, that is, we passed on and in looking back I noticed it. I believe that is all I saw up to the time—did you want me to continue?

Q. Go ahead.

A. The next thing which attracted my attention was four short blasts of the whistle followed by one blast, and in a very short time after the sounding of these whistles I heard the crash. Immediately following the crash which was quite audible, a great many passengers came out from indoors of the Flyer, and the Flyer immediately reversed engines and turned back, swinging with the bow towards the left or towards the boats. We circled back then and approached the Strathalbyn on her starboard side. By this time the boats had parted a bit and the Captain of the Flyer hailed the Strathalbyn I think about twice before he got an answer, asking if any assistance was required, and did not seem to get any answer excepting,—oh, yes, he got an answer like this: Some one replied “What the Hell was he trying to do”.

MR. BOGLE: I object to that.

A. (Continuing) We approached the Strathalbyn on the right hand side. The Strathalbyn backed off and we backed off a little and came around and then went down to the Virginian and spoke her. They replied that they would be able to take care of themselves. The Flyer then returned and spoke the Strathalbyn again and it appeared to me as if the vessel was going to sink. Someone asked us from the Strathalbyn to stand by and they then started back towards Tacoma, and the Flyer ran along side under reduced speed, close to her for some little distance. Then we proceeded on our way to Tacoma.

Q. When you approached the Strathalbyn after the collision, after the Flyer had turned around, did you notice the lights on the Strathalbyn then?

A. Yes, I observed the mast light and the green light as well as several lanterns moving about the deck.

Q. Did you have any difficulty in your mind in determining that the light you call the mast light in this testimony was the masthead light on the Strathalbyn?

A. I did not.

Q. When you were coming back, state whether or not the masthead light appeared to be steady or whether or not it appeared to be flickering up and down, up and down and going out, and coming up again, or anything of that kind? A. It appeared to be steady.

Q. You say you observed the green light and red light on the Strathalbyn when you first saw them. How long did you observe the green light; that is, was it a long time or a short time?

A. About half the time between the time I first observed them until the vessels were opposite us.

CROSS EXAMINATION.

(BY MR. BOGLE.)

Q. How old are you? A. Twenty-eight.

Q. You are not a seafaring man? A. No, sir.

Q. You are in business in Tacoma, are you?

A. Yes.

Q. How long have you been in business here?

A. For myself, a matter of between three and four years.

Q. Do you know Mr. Hayden, proctor for libellant in this case?

A. I have known Mr. Hayden, as Mr. Hayden, never intimately, but as Attorney Hayden for, I should say, six or eight years.

Q. Do you know him personally?

A. Well, I will ask you what you mean by that. I know him to speak to.

Q. That is the extent of your acquaintance, is it?

A. Yes.

Q. You have never met him socially? A. No, sir.

Q. Do you know his partner, Mr. Huffer?

A. No, sir, I do not.

Q. Do you know Capt. Beecher?

A. No, sir, I do not.

Q. When did this collision occur, Mr. Hofstetter?

A. In the spring of 1912. I could not give the exact date.

Q. When was the matter of your testimony in this case first brought to your attention?

A. About sometime late in May.

Q. 1912?

A. I think it was two years ago. I know it because the season, I think it was two years ago. It was late in the basket-ball season, I know that, because I happened to be in Seattle as an official in a basket-ball game.

Q. Who took up the matter with you there?

A. When my attention was first called to it?

Q. Yes.

A. Mr. Hayden called me up and asked me—well, he either phoned me or called upon me.

Q. And you talked the matter over then, did you?

A. Yes.

Q. Did you talk it over frequently with Mr. Hayden since?

A. We discussed it several times. At that time he called upon me.

Q. Have you discussed it since?

A. Night before last, Mr. Hayden called me up, the day before yesterday, and said he would shortly be ready for my testimony, and I called upon him here in his office that evening; that was possibly during the day. I repeated to him what I knew of the case.

Q. You discussed the case between you, did you?

A. I told him what I knew of the case.

Q. And he did not have anything to say at all?

A. Excepting to ask me questions.

Q. Now, leaving Tacoma, you were on the outer deck of the Flyer, were you?

A. We were not leaving Tacoma, but Seattle.

Q. You were on the outer deck of the Flyer?

A. Yes, sir.

Q. Forward or aft? A. Aft.

Q. How long did you remain aft?

A. Until about the time when we passed the Indianapolis.

Q. Which way was the Indianapolis coming?

A. Headed for Seattle.

Q. Where did you pass the Indianapolis?

A. I would say,—I was not paying much attention to the Indianapolis, but I would say either off Three Tree Point or a little this side.

Q. Did she pass between you and the Point?

A. Yes, to our port side.

Q. Where did you pass the Virginian on this night?

A. A short time after passing the Indianapolis.

Q. You passed the Indianapolis first, did you?

A. Yes.

Q. And she passed inside, between the Virginian and the Point?

A. The Indianapolis; I did not notice when they passed, but I think she did, because she was further distance off from us than the Virginian.

Q. The Virginian at that time was ahead of you, wasn't she? A. Yes.

Q. Do you remember about where, with reference to the shore, you passed the Virginian?

A. We were this side of Three Tree Point.

Q. You were south of Three Tree Point? A. Yes.

Q. When you passed the Virginian? A. Yes, sir.

Q. How did you pass the Virginian?

A. We approached her.

Q. You were still on the after deck?

A. No, sir, we stepped forward about that time.

Q. Did you step forward before you passed the Virginian or after?

A. Before we passed the Virginian.

Q. And you were standing on the port bow of the Flyer?

A. Yes, sir, when we passed the Virginian.

Q. Now, how did you pass the Virginian?

A. We approached her stern and came around the right hand side of her; we passed to her right.

Q. How close did you pass to the Virginian?

A. Approximately 100 yards.

Q. At that time you changed your course to pass the Virginian didn't you?

A. I could not say definitely that we did.

Q. You were coming up astern of her and didn't you pass across her stern and off to her starboard?

A. Well, we didn't exactly cross her stern, but we were coming up practically behind her and may have turned out a trifle to get around her; but it was dark and I was not running the vessel.

Q. You passed abeam of her about 100 yards off?

A. Yes.

Q. You must have changed your course to get that far off?

A. Yes, we may have turned off somewhat.

Q. How did the Flyer continue after passing the Virginian; did she continue on that same course off to starboard?

A. She continued on approximately the same course with the Virginian.

Q. You did not notice the Virginian after you passed her, did you? A. Yes.

Q. Did you turn around and watch the Virginian after passing her? A. Not particularly, no.

Q. Do you know whether you continued on the course parallel to the Virginian's course or not?

A. I know we did to the extent of having noticed her at the time after the Strathalbyn came up, then I looked back and saw her in approximately the same position, which would indicate to me that we were going in the same course.

Q. But I mean on the same compass and course; did you notice Point Robinson light at the time?

A. Yes.

Q. How did that light bear from you as you passed the Virginian?

A. Approximately straight ahead of the Flyer.

Q. That light was straight ahead of the Flyer?

A. As we were abreast of the Virginian, yes.

Q. You were headed for Point Robinson light?

A. Yes.

Q. Did you notice that light after you passed the Virginian?

A. I noticed the light during the time that the Virginian, Flyer and Strathalbyn were approaching each other.

Q. Was it still straight ahead of you?

A. Well, if anything a trifle to our left at that time.

Q. How much was it to your left; do you know anything about the compass points?

A. Not a great deal, but if there is 180 degrees in a circle, it would be between 10 and 25 points to the left. It was only a trifling amount to the left.

Q. What you mean then is 10 or 25 degrees rather than points? A. Yes, sir, a small fraction.

Q. At this time were you still on the Flyer's bow?

A. Yes, sir.

Q. Now, when did you first see the Strathalbyn's lights?

A. At the time the lookout reported her, and the Captain of the Flyer sounded her whistle.

Q. The Captain of the Flyer gave a whistle, did he?

A. One blast following the lookout's report.

Q. Where was the Virginian at that time; did you notice her? A. At the time the Flyer blew her whistle?

Q. Yes.

A. Why, she would have been,—(interrupted)

Q. But where was she? A. She was to our stern.

Q. But did you notice her position?

A. I did not at that time.

Q. You think you were from a half to three-quarters of a mile from the Strathalbyn at that time, do you?

A. I would judge the distance to be about that.

Q. And how long had it been since you passed the Virginian?

A. That would be a matter of conjecture; if I was asked to estimate it I would say from—that is, you mean from the time we blew the whistle?

Q. Yes, from the time intervening the time you passed the Virginian up to the time you blew this whistle?

A. Well, it would be between two and five minutes, I would judge, to the best of my knowledge.

Q. Is that the nearest you can get to it?

A. Well, if I was asked to get closer I would say between three and four.

Q. You think it was as long as three, do you?

A. Yes, I do.

Q. Now, from what direction did you see this light on the Strathalbyn; what was the bearing of that light from the Flyer?

A. A little to the left, and straight ahead.

Q. How much to the left; in other words, off the Flyer's port bow?

A. Yes. If we had a compass I might show about

how many points it was. (Compass handed to witness.) Now suppose the Flyer was pointed north; well, about ten points or degrees, whichever it is, here. Between ten and fifteen; you ought to give me a little leeway on that.

Q. Mark the course of the Flyer with this ruler on the paper?

A. About here, at the time of the whistling, first. (Indicating.)

Q. Put an arrow on this course showing the direction? A. Well, about this way (indicating).

Q. Could you tell the direction of the Strathalbyn?

A. Not the direction except that I knew she was approaching from the position of her lights; that is, that she was headed that way; that is approaching us.

Q. Put down there the location of the Strathalbyn at the time you saw her first? A. Here (indicating).

Q. Where would be Pulley Point.

A. Some place to our stern off here; about here (indicating). Or rather, further back. I was not paying very much attention to Pulley Point.

Q. Now, taking the point I have marked on this paper as Robinson Point, put in Pulley Point?

A. Yes, sir, here (indicating).

Q. Now put on the course of the two vessels with reference to the points?

A. At the time we first whistled, I would say we would be about here on the Flyer (indicating), and this other boat would be about here.

Q. You think the Flyer and the Strathalbyn were approaching practically head on?

A. Practically so.

Q. In the first drawing you made you have them on courses which are not head on, by any means, and in your testimony you say they are ten to fifteen degrees off. Now, which is correct?

A. Well, we were approaching head on, but she was to our left, something like that amount, when we first saw her.

Q. You mean approaching parallel courses or coming directly to you?

A. We were approaching her, and she was approaching us.

Q. But with reference to your respective courses, was she coming directly towards you?

A. I could not say that. All I could see was her lights. I could not see the Strathalbyn, but the lights.

Q. Now, which of these drawings would you say is nearer correct? A. This one would be.

Q. I will introduce this in evidence.

Whereupon said paper is marked in evidence, "Hofstetter No. 1".

Q. Now, this drawing you have made shows the relative positions of the two vessels at the time the Flyer first blew to the Strathalbyn?

A. To the best of my knowledge.

Q. And the distance between the vessels was half or three-quarters of a mile?

A. To the best of my knowledge.

Q. And the Flyer was headed inside Robinson's Point? A. A trifle.

Q. You don't know what direction the Strathalbyn was headed?

A. Not exactly, but in the general direction in which we were.

Q. At that time could you see all three of her lights?

A. Yes.

Q. Her masthead light, green light and red light?

A. Yes, sir.

Q. Then she must have been headed directly toward you?

MR. HAYDEN: We object to that as calling for a conclusion and being for the Court.

Q. You swear positively that at the time you saw all three of her lights? A. I would.

Q. And that is as true as any other testimony you have given in this case? A. It is.

Q. Did you see any other lights except the three lights you have mentioned on the Strathalbyn?

A. Not at that time.

Q. You did not see her range lights, if she had any?

A. I do not know what you mean by that.

Q. That is a white light which sets aloft?

A. I did not.

Q. She had only one light forward?

A. That is all I saw.

Q. Did you see a white light down near her deck when you were approaching her? A. No, sir.

Q. Which could have been mistaken for a range light? A. I did not.

Q. You are positive you saw the green light, are you? A. At first, yes.

Q. When she first whistled? A. Yes.

Q. Now, did the Flyer change her course at the time of the whistling, do you know?

A. Not perceptibly, no; I didn't notice any change.

Q. Could you tell whether the Strathalbyn changed her course or not? A. I could not.

Q. How close did the Flyer pass the Strathalbyn and on which side?

A. The Strathalbyn passed to our port side and if anything a trifle closer than we had passed the Virginian.

Q. Less than 100 yards?

A. I would say a trifle less.

Q. Can you make that any more definite?

A. Well, I did not measure it and distance is a little deceiving, but I would say less than 100 yards.

Q. In passing her, did you notice any other lights on her?

A. I noticed several small lights near the stern.

Q. When was that?

A. When we were abeam of her.

Q. And about 100 yards away, or less?

A. Yes, sir, less than that.

Q. Did you see her port light in passing?

A. I did.

Q. Did you see her port light at the time you saw these white lights on her stern?

A. Yes, before I saw them.

Q. When was the last you saw of her port lights?

A. Just before the bows of the three boats became opposite each other.

Q. And when they became opposite each other, what happened then?

A. Then I noticed the other lights.

Q. And paid no further attention to the port light?

A. No, sir.

Q. Did you look to see whether you could see it after that? A. I did not.

Q. You did not notice the port light then when you were abeam of her? A. No, sir.

Q. Nor when you were astern? A. No.

Q. When was the last time you saw the masthead light?

A. At the time I noticed the stern lights; the lights in the stern of the boat.

Q. You saw it at that time, did you?

A. I may have, I didn't notice.

Q. When was the last time you saw the masthead light? A. The same time I saw the port light.

Q. That was when the bows of the two vessels were opposite? A. Yes.

Q. You did not see the masthead light or the port light after that?

A. They may have been there, but I didn't notice.

Q. When did you last see the starboard light?

A. The green light—that disappeared after the boat had about half covered up the distance between them when we first whistled, until we met each other.

Q. How far apart were you when the green light disappeared?

A. Approximately one-fourth or one-third of a mile.

Q. At that time what was the bearing of the Strathalbyn from the Flyer, at the time the green light disappeared? A. She was bearing down to our left.

Q. How many points off your port bow, or degrees rather? A. Between fifteen and twenty.

Q. I wish you would indicate on this exhibit the position of the Strathalbyn when her green lights disappeared? A. About here (indicating).

Q. Mark that "Strathalbyn 2".

A. Yes (marking).

Q. The arrow you have marked "Str. 2" is the relative position of the Strathalbyn to the Flyer at the time her green light disappeared? A. Yes, sir.

Q. And it was in that position you saw the green light just immediately prior to that? A. How is that?

Q. If the Strathalbyn's green light disappeared

here, then immediately prior to that you had seen her green light?

A. I was not looking at the green light at the time it disappeared but that was the position of the boat.

Q. What I am trying to get at is, at the time, it was about at that point you last saw it? A. Yes, sir.

Q. And then she was from 15 to 20 degrees off your port bow? A. Yes, sir.

Q. Did you look back at any of these times, from the time you first whistled to the Strathalbyn until you had passed it, to see where the Virginian was?

A. Not until,—I don't have any recollection of looking back until the Strathalbyn was opposite us.

Q. Then where was the Virginian?

A. The Virginian was about 10 degrees off our stern.

Q. And how far back?

A. One-fourth to one-third of a mile.

Q. When the Strathalbyn was opposite your beam?

A. Yes.

Q. You think not more than one-third of a mile back?

A. No, she could not have been more than one-third of a mile back.

Q. And she was considerably over to your left?

A. No, not considerably.

Q. Slightly? A. Slightly to our left.

Q. You could see her plainly from where you were?

A. I stepped to the rail of the Flyer when I saw her.

Q. How were the lights on the Virginian?

A. The Virginian was pretty well lighted up. I noticed no particular lights. The entire boat was lighted up; that is, lights along her deck; that is, from the port-holes.

Q. You did not notice her running lights or mast-head or range lights? A. No, sir.

Q. How did the lights of the Strathalbyn compare with the lights of the Virginian; were they just as bright? A. Those I saw were.

Q. You think the masthead light of the Strathalbyn was as bright as the lights of the Virginian?

A. They were.

Q. Were they apparently electric lights on the Strathalbyn?

A. I could not distinguish between electric and oil, or any other lights?

Q. You could not tell?

A. No. I never gave it a thought.

Q. And the Strathalbyn's port light was a bright light, was it? A. It was when I saw it.

Q. The red light? A. Yes.

Q. Now, after first making out the lights of the Strathalbyn, did you watch them steadily up to the time you passed her? A. More or less steadily.

Q. Did you watch them steadily? A. No.

Q. Which vessel blew the first blast, the Flyer or the Strathalbyn?

A. The first blast I was conscious of was the Flyer.

Q. And the Strathalbyn answered that, did she?

A. Yes, sir.

Q. You are positive of that, are you? A. Yes.

Q. Did you hear the Strathalbyn whistle after you passed her?

A. I might have heard it, but I have no recollection of it.

Q. Do you remember any whistles after she passed you?

A. Not until the four were blown, and one other longer blast, which were more or less of a jumble, seeming to come right together.

Q. Were those four blasts one right after the other?

A. Yes, in quick succession.

Q. And then the only other whistle you heard was one long one?

A. Yes, it seemed to come in about the same time.

Q. Apparently from the same vessel?

A. I could not tell which vessel any of them came from; they were close to each other.

Q. You testified that after you passed the Strathalbyn, you went over to the rail and looked back, and that the Strathalbyn and Virginian were apparently on opposite lines to each other? A. Yes, approaching.

Q. And you heard no whistles, you say?

A. I have no recollection of any. My companion,

I might add, joined me at that time and I was talking to him.

Q. That was after the Strathalbyn was past?

A. Yes, or about the time she was passing.

Q. Now, you testified that you saw the Virginian's bow turning a trifle to port? A. Yes, sir.

Q. Tell what you saw that indicated to you that the Virginian's bow was turning to port?

A. I could see the port lights.

Q. The port lights?

A. The lights along the length of the vessel.

Q. And how far was the Virginian away from you at that time?

A. Between one-fourth and one-third of a mile.

Q. And what happened to the lights shining through the port holes; how could you tell she was turning to port? A. Because I could see them.

Q. She was running in the same general direction you were? A. Yes.

Q. Did the lights show out, or how could you tell they were moving?

A. I could see that the vessel was lined up a little that way.

Q. Moving in towards the shore, was she?

A. She was not moving much, and I could see the boat lay in that position.

Q. Had she apparently changed her course?

A. She had apparently changed her course a trifle.

Q. What do you mean by a "trifle"?

A. About a matter of 10 degrees.

Q. You judge that from the fact that the port lights changed somewhat their bearing towards you; that is the lights shining out of the ports?

A. Yes, the ones I could see.

Q. Some were shut out?

A. I could not tell, but I could tell the contour of the vessel by the lights along the side.

Q. But how could you tell from that how she was turning or had turned?

A. From the fact that I could see these lights.

Q. Had not you been able to see them before?

A. I did not notice them until I looked back.

Q. How could you tell she had turned if you had not noticed them before?

A. Because from her position and direction she was pursuing when we passed her, I rather expected she would be headed closer in the same direction than we were.

Q. But that is what you judge from, that at the time you passed her she was not headed in the same direction as when you looked back? A. Yes, sir—

Q. You passed her north of Pulley Point?

MR. HAYDEN: Allow the witness to complete his answer.

A. I think it was this side of Pulley Point.

Q. How far this side of Pulley Point?

A. I did not notice Pulley Point when we passed.

Q. So that you don't know whether it was north or south?

A. Well, I took it for granted it was south because of the apparent,—(interrupted)

Q. But do you know?

MR. HAYDEN: Let him finish his answer.

Q. But do you know whether you were north or south of Pulley Point when you passed the Virginian?

A. We were this side of Pulley Point.

Q. Did you notice Pulley Point when you passed?

A. No, but I noticed that we were approaching Robinson's Point when we whistled the Strathalbyn and that we were then not over two-thirds of the distance, I would judge, between Robinson's and Pulley Point.

Q. Two-thirds of the distance from Pulley to Robinson?

A. No, one-third, judging by looking at the Point we were coming to,—Robinson's Point.

Q. You judge that from the fact that you had passed Pulley at the time you passed the Virginian?

A. Yes, sir.

Q. From the distance you would run, merely?

A. Yes, sir.

Q. Do you know what time you were making that night? A. No.

Q. Do you know how far you had run since passing the Virginian to reach this point which was one-